

EXHIBIT 4

DEPOSITION OF DAVID BAZEMORE

May 15, 2007

Pages 1 through 228

PREPARED BY:

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	Page 1	Page 3
1		
2	IN THE UNITED STATES DISTRICT COURT	
3	FOR THE MIDDLE DISTRICT OF ALABAMA	
4	EASTERN DIVISION	
5		
6	KYLE BENGSTON,	
7	Plaintiff,	
8	Vs. CIVIL ACTION NO.	
9	3:06-cv-00569-MEF	
10	DAVID BAZEMORE, O.D.,	
	et al.,	
11	Defendants.	
12	*****	
13	DEPOSITION OF DAVID BAZEMORE, O.D., taken	
14	pursuant to stipulation and agreement before	
15	Patricia G. Starkie, Registered Diplomate Reporter,	
16	CRR, and Commissioner for the State of Alabama at	
17	Large, in the Law Offices of Adams, Uimbach,	
18	Davidson & White, 205 South 9th Street, Opelika,	
19	Alabama, on Tuesday, May 15, 2007, commencing at	
20	approximately 9:35 a.m.	
21	*****	
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23		
	Page 2	Page 4
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2	APPEARANCES	
3		
4	FOR THE PLAINTIFF:	
5	Mr. David W. Adams	
6	THE NEWMAN LAW FIRM	
7	Attorneys at Law	
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9	178 South Main Street	
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11		
12	FOR THE DEFENDANT:	
13	Mr. Blake Lee Oliver	
14	Mr. Matt White	
15	ADAMS, UMBACH, DAVIDSON & WHITE	
16	Attorneys at Law	
17	205 South 9th Street	
18	Opelika, Alabama	
19	Also present: Mr. Kyle Bengtson	
20	*****	
21		
22	EXAMINATION INDEX	
23		
1	DAVID BAZEMORE, O.D.	
2		
3	BY MR. ADAMS 5	
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Deposition of David Bazemore

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<p>1 DAVID BAZEMORE, O.D.</p> <p>2 The witness, after having first been duly 3 sworn to speak the truth, the whole truth and 4 nothing but the truth testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. ADAMS:</p> <p>7 Q. This will be the deposition of Dr. David 8 Bazemore, OD. Dr. Bazemore, we met in a 9 previous deposition. My name is David 10 Adams. I represent Kyle Bengtson.</p> <p>11 MR. ADAMS: Same stipulations as 12 in our prior deposition?</p> <p>13 MR. OLIVER: Yes.</p> <p>14 MR. WHITE: Yes.</p> <p>15 MR. ADAMS: Let me finish the 16 formalities. This will be 17 taken for the purposes of 18 discovery and any other 19 purpose authorized by the 20 federal civil procedure rules.</p> <p>21 Q. Dr. Bazemore, I'm sure your attorneys have 22 explained to you what this is about, and 23 you've observed Kyle Bengtson's</p>	<p>1 also means that word responses should be 2 given as opposed to uh-huh and unh-unh as 3 we're all prone to do. And I believe 4 that's it.</p> <p>5 All right. Can you give me your full 6 name, Dr. Bazemore.</p> <p>7 A. David Newell, N-E-W-E-L-L, Bazemore.</p> <p>8 Q. Okay. Any junior or anything like that?</p> <p>9 A. No.</p> <p>10 Q. Okay. And where do you reside?</p> <p>11 A. 903 McLure, M-C-L-U-R-E, Avenue, Opelika.</p> <p>12 Q. How long have you lived there?</p> <p>13 A. 36801.</p> <p>14 Q. Okay.</p> <p>15 A. Twelve or 13 years.</p> <p>16 Q. And who lives there with you?</p> <p>17 A. My wife.</p> <p>18 Q. Okay. And what is her name, please?</p> <p>19 A. Joy, the maiden name is Crawley, 20 C-R-A-W-L-E-Y, Bazemore.</p> <p>21 Q. Okay. And is she originally from Opelika?</p> <p>22 A. She was born in the Philippines. When I 23 met her, it was in Birmingham.</p>
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<p>1 deposition. Have you ever given a prior 2 deposition?</p> <p>3 A. No, sir.</p> <p>4 Q. Okay. Well, if I ask a question that you 5 don't understand, and I can assure you that 6 will happen probably a number of times, not 7 because of any inability on your part, but 8 because I don't always ask perfect 9 questions, please ask me to rephrase it. 10 Because the deal is if you answer it, it's 11 assumed you understood it.</p> <p>12 MR. WHITE: Object to the form.</p> <p>13 Q. If you need to take a break at any time, 14 please feel free to just let me know or 15 tell your attorney, and I'll be glad to 16 accommodate you. This isn't a marathon or 17 an endurance test, so I'll be glad to 18 accommodate you.</p> <p>19 Also it's important that everything you 20 and I say be taken down by our court 21 reporter. That means we need to respond 22 verbally as opposed to nodding our head as 23 we all do in normal conversation, and it</p>	<p>1 Q. Okay. I noticed in your interrogatory 2 responses that you attended Opelika High 3 School?</p> <p>4 A. That's correct.</p> <p>5 Q. Okay. And so I take it she didn't go to 6 high school in Birmingham?</p> <p>7 A. She went to high school in Richmond, 8 Virginia.</p> <p>9 Q. Okay. And Opelika is what I intended to 10 say. She went to high school in Richmond, 11 Virginia.</p> <p>12 Does she have any relatives by blood or 13 marriage -- well, let's just say does she 14 have any relatives on her side of the 15 family residing in Lee County?</p> <p>16 A. No.</p> <p>17 Q. Do y'all have any children?</p> <p>18 A. Yes.</p> <p>19 Q. And do any of them reside in Lee County?</p> <p>20 A. One.</p> <p>21 Q. Okay. And what's that child's name?</p> <p>22 A. Hillary, and it's still Bazemore.</p> <p>23 Q. Is she going to be changing her name any</p>

	Page 9	Page 11
1	time soon that you know of?	1 A. Yes.
2	A. Yes.	2 Q. All right. Now, do you know if any of your
3	Q. Okay. And what will her new name be?	3 four daughters intend to reside -- well, do
4	A. White.	4 Grace, Shelly, Heather, any of them, to
5	Q. All right. And is she going to be residing	5 your knowledge, plan to move back to this
6	in Lee County after her marriage, I assume	6 area?
7	it is?	7 A. No.
8	A. I don't know.	8 Q. Okay. Any other relatives by blood or
9	Q. Okay. The jury may be drawn from some	9 marriage residing in the counties that I
10	other counties in between here and	10 just mentioned?
11	Montgomery. Do you have any other	11 A. I don't know if my sister's husband counts
12	relatives by blood or marriage that reside,	12 or something like that.
13	say, in Montgomery County; in Macon County,	13 Q. Yes. What is his name?
14	in Lee County, Tallapoosa County?	14 A. His name is Terry and Carol White.
15	A. Yes.	15 Q. Terry White?
16	Q. Russell as well.	16 A. Uh-huh (positive response).
17	A. My mom lives here.	17 Q. And where does he live?
18	Q. What is her name, please?	18 A. Opelika.
19	A. Her name is Annie Merle, A-N-N-I-E,	19 Q. Okay. Anybody else?
20	M-E-R-L-E, Bazemore.	20 A. I can't think of anybody else right off.
21	Q. Okay.	21 Q. Do you have any brothers or sisters?
22	A. I have a sister that lives here in town.	22 A. Well, I gave you Carol, my sister.
23	Q. What is her name, please?	23 Q. Yes, you did. Sorry about that. But no
	Page 10	Page 12
1	A. Her name is Carol, with a C, and the last	1 brothers?
2	name is White.	2 A. Lives in Atlanta.
3	Q. And do you have any other children other	3 Q. Okay. I think you mentioned him.
4	than Hillary?	4 A. Yes. We were talking last time.
5	A. Three.	5 Q. What is his name?
6	Q. Okay.	6 A. His name is Steve Bazemore.
7	A. Yes.	7 Q. All right.
8	Q. What are their names?	8 A. And I have another sister whose name is
9	A. Starting with the oldest, it's Grace. Want	9 Susan Lazenby, Z-E-N-B-Y. And that's in
10	last names?	10 Birmingham.
11	Q. Please, yes.	11 Q. Okay. What is your date of birth, doctor?
12	A. Yukich. Y-U-K-I-C-H.	12 A. 2/21/53.
13	Q. Where does she live?	13 Q. And, now, we will make sure this isn't
14	A. New York.	14 disseminated, but if you can give me your
15	Q. Okay.	15 social security number.
16	A. Shelly Spears. It's like it sounds. North	16 A. 424-72-8982.
17	Carolina.	17 Q. Okay. Do you attend or are you a member of
18	Q. Okay.	18 a church in this area?
19	A. And Heather still has Bazemore.	19 A. Yes.
20	Q. Okay.	20 Q. Which one is that?
21	A. And that's in Birmingham. Well, it's in	21 A. First Baptist Church in Opelika.
22	Pelham, if it matters.	22 Q. Okay. And how long have you been a member
23	Q. Okay. Four daughters?	23 there?

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<p>1 A. We moved here in 1980, so that would be 27 2 years.</p> <p>3 Q. Okay. Are you a member of any civic 4 organization?</p> <p>5 A. I'm not sure what you're looking for.</p> <p>6 Q. Rotary, Civitan, anything like that?</p> <p>7 A. No.</p> <p>8 Q. Lion's Club?</p> <p>9 A. (Witness shakes head from side to side.)</p> <p>10 Q. Make sure you say no.</p> <p>11 A. No. I'm sorry.</p> <p>12 Q. I think you said it earlier, but maybe not 13 to the last couple of clubs I mentioned. 14 Are you a member of any other 15 organization of any type? Volunteer with 16 anything?</p> <p>17 A. Well, yes.</p> <p>18 Q. Okay.</p> <p>19 A. And that's -- I do some volunteer work for 20 the Lion's Club and for a Mercy Medical Eye 21 Clinic -- well, it's a medicine clinic 22 that's down in Auburn.</p> <p>23 Q. Okay. Are you a member of the Lion's Club?</p>	<p>1 Q. Okay. I see. And can you give me an idea 2 of how often they might call and make that 3 appointment?</p> <p>4 A. Not really without looking.</p> <p>5 Q. Okay. Would you say you see at least one 6 patient a month under that arrangement?</p> <p>7 A. (Witness nods head up and down.)</p> <p>8 Q. Is that a yes?</p> <p>9 A. Yes.</p> <p>10 Q. Is that discounted or complete pro bono or 11 what?</p> <p>12 A. There's no charge to them when I see them.</p> <p>13 Q. Okay. And you said -- you'd say it's at 14 least once a month?</p> <p>15 A. That would be true for the last year, you 16 know. That's all I could say for sure.</p> <p>17 Q. Would you say it's more than -- say more 18 than five a month?</p> <p>19 A. No.</p> <p>20 Q. Okay. More than three would you say?</p> <p>21 A. It varies from month to month. I'd hate to 22 say without looking back through and 23 dividing it out.</p>
Page 14	Page 16
<p>1 A. No.</p> <p>2 Q. Okay. But you volunteer, do some work for 3 them?</p> <p>4 A. (Witness nods head up and down.)</p> <p>5 MR. WHITE: Have to answer yes or 6 no.</p> <p>7 A. Yes.</p> <p>8 Q. And Mercy Medical in Auburn, what is that?</p> <p>9 A. That is a clinic that helps people that 10 aren't able to provide for their own 11 medical care.</p> <p>12 Q. And what do you do with Mercy Medical?</p> <p>13 A. I do eye exams on patients that they 14 request me to see.</p> <p>15 Q. How often do you do that volunteer work?</p> <p>16 A. I couldn't really give you a number. You 17 know, I -- there might be -- I don't know. 18 I'd have to look back through the schedule.</p> <p>19 Q. Okay. I mean, do you volunteer once a 20 month or --</p> <p>21 A. No. They come to the office.</p> <p>22 Q. I see.</p> <p>23 A. They call and make the appointments.</p>	<p>1 Q. All right. But somewhere between one and 2 five a month would be fair?</p> <p>3 A. (Witness nods head up and down.)</p> <p>4 Q. Is that a yes?</p> <p>5 A. I would say -- I'm sitting here trying to 6 think about this month and last month. I 7 would say that's in the ballpark.</p> <p>8 Q. Okay. Well, that's commendable that you do 9 that.</p> <p>10 Now, you attended Opelika High School?</p> <p>11 A. That's correct.</p> <p>12 Q. What year did you graduate?</p> <p>13 A. 1971.</p> <p>14 Q. And where did you -- what did you do after 15 high school, immediately after high school?</p> <p>16 A. Well, for that summer, I worked, and then 17 in the fall I went to Auburn University.</p> <p>18 Q. Okay. What did you study at Auburn?</p> <p>19 A. I was in a premed curriculum. It would be 20 a Bachelor of Science.</p> <p>21 Q. So your degree is premed from Auburn?</p> <p>22 A. I did not get a degree from Auburn.</p> <p>23 Q. Okay. Where did you obtain your degree?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. I was accepted into optometry school in the 2 fall of '73, I think. 3 Q. All right. So you attended your freshman 4 and sophomore year at Auburn? 5 A. That's correct. 6 Q. Now, what made you decide to go to 7 optometry school? 8 A. Well, my vision is not very good, and that 9 was something that interested me, so I had 10 applied to that early and they -- I was 11 accepted in. 12 Q. Okay. Was your original plan to attend 13 medical school? 14 A. Well, the curriculum is the same. There's 15 not a pre-optometry curriculum in an 16 undergrad program. It's the same courses. 17 Q. When you entered Auburn, what was your 18 career goal? 19 A. At that point, I was playing basketball at 20 the University and I was going to school 21 and I was -- I had a pretty full schedule. 22 I wasn't really too worried about six 23 months from then.</p>	<p style="text-align: right;">Page 19</p> <p>1 growing up. My dad was a bigger basketball 2 fan than football fan, so I was in many an 3 empty gymnasium. 4 You mentioned your vision was one of 5 the things that motivated you to go to 6 optometry school. Tell me about that. 7 A. Well, I am nearsighted. I have trouble 8 seeing at a distance. And I got 9 corrections when I was in ninth grade in 10 high school, and it's just something that's 11 kind of held my interest since then. 12 Q. Okay. When did you and your wife marry, 13 what year? 14 A. You're going to get me in trouble. 1977. 15 Q. So you were single, playing basketball at 16 Auburn, making good grades. 17 A. Correct. 18 Q. Okay. So what prompted you, other than 19 your vision? Was there anything other than 20 your vision that prompted you to want to 21 apply to optometry school after -- around 22 your second year of college? 23 A. Well, I think at that point I did not have</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. Okay. But you entered premed with the idea 2 of becoming what? 3 A. I thought that that would be a very 4 interesting field to be in and would give 5 me an opportunity to serve other people. 6 Q. Okay. But my question is when you decided 7 on premed, was your vision or objective to 8 eventually go to medical school, or was it 9 to do something else? 10 A. I thought that was one of the options that 11 I was looking at, that I thought would be 12 very interesting. 13 Q. How were your grades your first two years? 14 A. At Auburn? 15 Q. Yes. 16 A. I think I made all A's and one B. 17 Q. Okay. So you were playing basketball? 18 A. Yes. 19 Q. So did you play for Bob Davis? 20 A. At the time that I played, they still had a 21 freshman team. 22 Q. I see. Okay. Well, I'm a rare breed. I 23 actually went to Auburn basketball games</p>	<p style="text-align: right;">Page 20</p> <p>1 anything to lose by applying there as far 2 as trying to get in early. The worst thing 3 they could say was no. But I was -- I was 4 fortunate enough to be accepted early 5 because of my performance at the undergrad 6 level. 7 Q. Okay. And when you say accepted early, 8 what do you mean by that? 9 A. Most of the applicants do have four-year 10 degrees when they go in there. 11 Q. And was that true in 1973? 12 A. I couldn't tell you as far as the 13 percentage of my class that was in -- that 14 had a degree in this or that. I really 15 couldn't give you those numbers. 16 Q. Okay. Did you apply to any other schools 17 other than optometry school? 18 A. No. 19 Q. You didn't apply to vet school or anything 20 like that? 21 A. No. I was more interested in the other. 22 Q. Okay. Now, did you apply anywhere other 23 than UAB?</p>

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<p style="text-align: right;">Page 21</p> <p>1 A. No, that was my first choice. 2 Q. Okay. So you weren't turned down to any 3 optometry school? 4 A. No. 5 Q. And so you entered optometry school, you 6 said, in the fall of '73. Now, how many 7 years were you in optometry school? 8 A. That is a four-year program. 9 Q. All right. And what was your class rank 10 upon graduation, do you know? 11 A. I was first in the class. 12 Q. And what did you do upon graduation? 13 A. I went into the Navy for three years to pay 14 back a scholarship that I was on in school. 15 Q. Okay. And where were you stationed? 16 A. I was stationed -- I was in Beaufort, South 17 Carolina, and I worked in the eye centers. 18 There's a hospital there and a dispensary 19 on one of the -- on the Parris Island base. 20 Q. Okay. Did you have to become a licensed 21 optometrist to practice optometry in the 22 military? 23 A. Yes.</p>	<p>1 in any other states? 2 A. No. 3 Q. All right. So we're you stationed anywhere 4 else other than Beaufort? 5 A. No. 6 Q. And, now, after three years, what did you 7 do then? 8 A. Moved back here to Opelika. 9 Q. Okay. And so you graduated in 1977, moved 10 back here in 1980? 11 A. Correct. 12 Q. And when were you discharged from the Navy? 13 A. In the summer of 1980. 14 Q. Okay. And that was honorable? 15 A. Right. 16 Q. Okay. In 1980 what did you do? What job 17 did you take? 18 A. I opened my own practice of optometry, a 19 private practice here in Opelika. 20 Q. And what was the name of that and where was 21 it located? 22 A. It was just under my name. It was on 23 Avenue A.</p>
<p style="text-align: right;">Page 22</p> <p>1 Q. Okay. And where did you -- what state did 2 you sit for initially? 3 A. When you're in -- Well, for Alabama, to 4 answer your question. 5 Q. All right. So did you have to sit for a 6 board? 7 A. Yes. 8 Q. Okay. And you had to when you graduated? 9 A. Well, as soon after that as it was offered. 10 Q. How long after you graduated was it 11 offered? 12 A. I think it was either late July or August, 13 but I couldn't -- that was 30 years ago. 14 Q. All right. And you graduated, I guess, May 15 or June? 16 A. Early June. 17 Q. Okay. Did you pass the exam on the first 18 attempt? 19 A. Yes, I did. 20 Q. Okay. And are you licensed in any other 21 states? 22 A. No. 23 Q. Have you ever attempted to become licensed</p>	<p>1 Q. How long did you practice in that 2 arrangement? 3 A. It was approximately one year. 4 Q. All right. And what did you do after a 5 year? 6 A. I was offered a position at an office, at a 7 practice in -- it wasn't Village Mall 8 then. In the mall in Auburn. 9 Q. Was that Vision World? 10 A. That's correct. 11 Q. So that was in 1981? 12 A. Yes. 13 Q. What made you decide to leave your own 14 private practice? 15 A. At that time, my wife was helping me, and 16 we had a young child and we were going to 17 need to do something else. The people 18 there asked me if I would come to work for 19 them, so I did. 20 Q. Okay. And how many other optometry 21 practices were there in Auburn-Opelika at 22 that time? 23 A. Three, I believe.</p>

	Page 25	Page 27
1	Q. Okay. How long were you at Vision World?	1 left the Vision World practice?
2	A. Twelve or 13 years.	2 A. I'm not sure I understand what you're
3	Q. Okay. So until maybe '93 or '94?	3 asking.
4	A. Correct.	4 Q. That's a bad question. I'm just trying to
5	Q. What made you decide to leave there?	5 find out. You said several months. Do you
6	A. They did some things I couldn't agree with,	6 have any idea of how long it was between
7	so I found something else to do.	7 Vision World and Wal-Mart?
8	Q. Okay. And what do you mean by that?	8 A. I couldn't tell you an exact number of
9	A. Well, they had two locations, and they	9 months.
10	wanted to put somebody else in the second	10 Q. Okay. Was it more than two?
11	location that I had been covering for 12 or	11 A. Yes.
12	13 years, and that was not going to leave	12 Q. Was it more than five?
13	me enough to do, so I found something else	13 A. Yes, probably so.
14	to do.	14 Q. More than nine?
15	Q. Okay. Now, when you say that wasn't going	15 A. I couldn't say.
16	to leave you enough to do, what do you mean	16 Q. Okay. So maybe between five and nine?
17	by that?	17 Does that sound right?
18	A. Well, when I first went to work with them,	18 A. I would said possibly between six and 12.
19	they had three locations, and I was making	19 Q. Okay.
20	sure that they were covered either by	20 A. I couldn't tell you any closer than that.
21	myself or someone else. And when that was	21 Q. Okay. So what were you doing for a living
22	no longer my responsibility and there was	22 during that time period?
23	no discussion about how that would be done,	23 A. My wife was teaching school at that time,
	Page 26	Page 28
1	I felt like I was going to find something	1 and I was working some at a Pearle Vision
2	else to do.	2 that was there in the mall at that time.
3	Q. Okay. Were you asked to leave?	3 Q. Were you an employee of Pearle Vision?
4	A. No.	4 A. No.
5	Q. Okay. And where were the three locations?	5 Q. So how many hours a week were you working?
6	A. Auburn and Valley and Selma. But the Selma	6 A. It depended on how much there was to do.
7	one was closed, so it's not open anymore.	7 Q. Did you have a specified arrangement in
8	Q. How long after you left Vision World before	8 your contract or -- did you have a contract
9	you joined the Wal-Mart Optometric?	9 with them?
10	A. Several months.	10 A. There was not a contract that dictated that
11	Q. Okay. So what month was it that you left	11 I work a certain number of hours.
12	Vision World?	12 Q. Okay. Well, during that period between
13	A. I don't recall the exact month.	13 Vision World and Wal-Mart, were you ever
14	Q. Do you remember the time of the year?	14 working 40 hours a week at Pearle?
15	A. Not right off.	15 A. No.
16	Q. Okay. So you say it was '93 or '94?	16 Q. And what was the most you worked during one
17	A. Uh-huh (positive response).	17 week at Pearle?
18	Q. What month did you join the Wal-Mart	18 A. I would say -- I'm not sure. I also was
19	optometry practice?	19 helping -- I was also seeing some patients
20	A. I'm not sure this is correct, but I think	20 at Medical Arts Eye Clinic.
21	it was February.	21 Q. Okay. And how often did you do that?
22	Q. Okay. And was it a warm weather month?	22 A. Maybe once or twice a week. That would be
23	Was it, you know, already fall when you	23 a half a day at the most.

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<p style="text-align: right;">Page 29</p> <p>1 Q. Okay. What made you decide to join 2 Wal-Mart?</p> <p>3 A. I went and looked at some of the new 4 operations that they had opened and was 5 very pleased with the service and the cost 6 of the service at their locations, and I 7 thought that that was something that the 8 people in this area would greatly benefit 9 from, and I would like to be a part of 10 doing that.</p> <p>11 Q. When did the Wal-Mart that you work at 12 open?</p> <p>13 A. Was it '94? '93 or 4.</p> <p>14 Q. So was it brand new when you came in?</p> <p>15 A. Yes.</p> <p>16 Q. Were you there the first day it opened?</p> <p>17 A. I was there when it opened. Now, I don't 18 remember what day of the week it opened, so 19 if it opened on Sunday, I wasn't there. 20 Okay? But I was there when the store 21 opened.</p> <p>22 Q. Okay. Was there another optometrist there 23 working with you?</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. From Wal-Mart?</p> <p>2 A. There's nothing on -- I don't think there's 3 anything on the money order that says 4 Wal-Mart. It's just a money order like if 5 you went in and got one, except that 6 Wal-Mart is the payor.</p> <p>7 Q. Okay. Do you have to work a certain number 8 of days per week?</p> <p>9 A. I have a contract to provide services a 10 certain number of hours a day.</p> <p>11 Q. How many hours is that?</p> <p>12 A. It varies from day to day.</p> <p>13 Q. Okay. Well, what is your contract? We can 14 look at your contract in a minute, but do 15 you know how many hours a day you're 16 supposed to provide services?</p> <p>17 A. I think -- I'm not sure. I'd have to look 18 on there.</p> <p>19 Q. All right.</p> <p>20 A. It's 40 something hours, but I'm not sure.</p> <p>21 Q. Okay. Can you -- could you subcontract out 22 the optometry work at Wal-Mart if you 23 wanted to? Are you free to do that?</p>
<p style="text-align: right;">Page 30</p> <p>1 A. No.</p> <p>2 Q. Is there another optometrist there now?</p> <p>3 A. No.</p> <p>4 Q. So it's only been you the entire time?</p> <p>5 A. Except for when I would have somebody there 6 if I were going to be out of town.</p> <p>7 Q. Okay. And so you are the optometrist at 8 Wal-Mart unless you're on vacation or out 9 of town, and then somebody covers for you, 10 I guess?</p> <p>11 A. Uh-huh (positive response).</p> <p>12 Q. And that's a yes?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Now, how are you compensated? Are 15 you paid by Wal-Mart?</p> <p>16 A. No. It's an independent contract to 17 provide services, and I pay them a certain 18 amount of rent.</p> <p>19 Q. Do you get a paycheck?</p> <p>20 A. No. I get -- the way that it operates is 21 at the end of the day, I'm given a money 22 order for the fees that were collected that 23 day.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. I don't think so. I've never done it, but 2 I don't think so.</p> <p>3 Q. Does your agreement with Wal-Mart require 4 that you be there a certain number of weeks 5 out of the year?</p> <p>6 A. Not to my knowledge.</p> <p>7 Q. Okay. Does your agreement with Wal-Mart 8 require that you be there at a certain time 9 of day? Do you have to be there when it 10 opens, for instance?</p> <p>11 A. I think probably the easiest way to help 12 you understand that would be to say that we 13 sit down and come up with a mutually 14 agreeable schedule for seeing patients each 15 week. It is not the same every day or 16 every time.</p> <p>17 Q. Who do you sit down with?</p> <p>18 A. The representative from Wal-Mart, which 19 would be what they call a district manager.</p> <p>20 Q. And you meet with this district manager 21 every week?</p> <p>22 A. No.</p> <p>23 Q. How often?</p>

	Page 33		Page 35
1	A. I would say probably once every two months or something to that effect.	1	to examine eyes.
2	Q. Is there anybody else that you meet with or report to or whatever?	2	Q. And when you say examine eyes, can you tell me what that means?
3	A. They have a regional manager that would be over districts that I probably see once or twice a year.	3	A. To look at someone and see if their eyes are okay.
4	Q. Do you ever have any interaction with the store manager?	4	Q. And so are you looking for problems with their eyes?
5	A. Very little, if any.	5	A. You're looking for -- when the people come in, they are asked why they are there that day. And depending on what they're there for, there is a basic battery of tests that are done on all patients, and then some of the others may require other tests. So there's nothing that's fixed for everybody that comes in.
6	Q. Okay. Who gives you your money order?	6	Q. And what are some of the eye problems that you -- that an optometrist is qualified to recognize or diagnose?
7	A. Well, either I go down to the cash office, and whoever is working there hands it to me, or the manager of the optical part of the vision center goes down there and gets it and brings it to me. One of those two things.	7	A. Well, there are all types of books full of things that we're looking for. I don't know that we have time to cover all of the things that would be, you know, answered. But mainly it's things to do with
8	Q. Okay. And what time of day do you do that? Typical day. I mean, how late is your optical center open?	8	
9	A. It's open later than I'm there, but I would say the -- for me, it would usually be between 5:30 to six o'clock.	9	
		Page 34	Page 36
1	Q. Okay. Who sees patients when you're not there in the evening?	1	refractive error, which has to do with how you see, and there's also numerous health problems that can be picked up through the tests that we do.
2	A. I'm not -- you're talking about every day?	2	Q. Okay. Now, what kind of health problems can you recognize by examining someone's eyes?
3	Q. Well, what time do you leave, typical day?	3	A. They sometimes have health problems that are related just to their eyes such as glaucoma or cataracts or other problems such as retinitis pigmentosa or other things.
4	A. There's not -- there's not anyone that comes in after me and sees patients.	4	There are other problems that are related to general health problems. You may pick up someone who has diabetes that didn't know it or someone that has a brain tumor that didn't know it.
5	Q. All right. Okay. So how late do you take appointments?	5	Q. Since you've been an optometrist, has optometry as a field or discipline advanced in the type things optometrists are called upon to do?
6	A. It varies from day to day.	6	A. I think that probably has advanced at a rate that would be comparable to all of the
7	Q. What's the latest appointment?	7	
8	A. 4:45.	8	
9	Q. And are you open on Saturday?	9	
10	A. Most Saturdays.	10	
11	Q. How many days a week do you see patients?	11	
12	A. It would probably total out to be five to five and a half total days.	12	
13	Q. And how many hours a week would you say you're there at Wal-Mart?	13	
14	A. It would vary from week to week, but I would say on the average it's around 45 hours.	14	
15	Q. Tell me what an optometrist is exactly.	15	
16	A. An optometrist is a doctor who is trained	16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23		23	

Deposition of David Bazemore

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1 other health care providers; not a whole 2 lot more or less.	1 education? 2 A. Yes, I am.
3 Q. Is there anything that you are called upon 4 to do as an optometrist that would be an 5 expansion of what you were trained to do at 6 UAB?	3 Q. And have you attended any continuing 4 education course in the last five years 5 that relates to the recognition or 6 diagnosis or treatment of glaucoma?
7 MR. WHITE: Object to the form. 8 You can answer if you 9 understand.	7 A. Yes, I have. 8 Q. Okay. Which course was that?
10 A. There are a lot of advances in equipment 11 that's available to test for conditions 12 that have been present for decades or 13 centuries that might better enable us to, 14 you know, diagnose and treat those 15 problems.	10 A. The CE courses are typically set up to deal 11 with multiple topics on a given weekend, 12 and the last time that we had one that 13 involved lectures on glaucoma was in the latter part of 2004.
16 Q. All right. Now, when you first became an 17 optometrist, was there such a thing as a 18 therapeutic license?	14 Q. And where was that?
19 A. That was brought forth after I graduated.	15 A. That one -- I don't remember. I think it was at UAB.
20 Q. Okay. What is a therapeutic license?	17 Q. All right. So you said the latter part of 2004?
21 A. It's a license to write prescriptions for 22 therapeutic drugs.	19 A. It was either that or early part of 2005.
23 Q. Is that how you're licensed? Do you have	20 Q. So it would have been after August 20th of 21 2004? Is that fair?
	22 A. I think so.
	23 Q. Do you remember what time of the year it
Page 38	Page 40
1 that license? 2 A. I have a therapeutic license, yes.	1 was when you were in Birmingham if that's 2 where it was?
3 Q. And is there anything that you had to do to to 4 become licensed, to get the therapeutic 5 license?	3 A. Not right off, no.
6 A. Yes.	4 Q. Prior to that course, when was the next 5 prior course?
7 Q. Okay. What did you have to do?	6 A. The year before that.
8 A. When the state law was passed, it was 9 contingent upon your taking a certain 10 number of CE hours that were applying only 11 to that object, to that discussion there, 12 and you had to pass the test at the end of 13 that to get it.	7 Q. Okay. That would have been in the latter 8 part of '03?
14 Q. And when did you obtain your therapeutic 15 license?	9 A. I'm not sure whether it was the latter or 10 early. I go to more than one seminar every 11 year.
16 A. I'm not sure. It's been about 25 years, 23 17 years, something in that ballpark.	12 Q. Okay. And when are the seminars offered 13 every year?
18 Q. So it was while you were at Vision World?	14 A. They are offered all over the country, and 15 they're all at different times, so I really 16 couldn't -- you know, they have about six 17 weekends of conferences in Birmingham 18 alone, as well as all the others all over 19 the place.
19 A. Correct.	20 Q. The one you went to in the latter part of 21 '03 or early '04, was there any discussion 22 on the recognition and diagnosis and 23 treatment of glaucoma? And by discussion,
20 Q. And did you pass that test on your first attempt?	
22 A. Yes, I did.	
23 Q. Are you current with your continuing	

	Page 41	Page 43
1	I mean was that part of the course	1 A. No.
2	materials?	2 Q. All right. What is the standard of care
3	A. The one in 2004 that I mentioned earlier,	3 for an optometrist in Alabama?
4	that was the topic.	4 MR. WHITE: Object to the form.
5	Q. Okay. Prior to August 20th of 2004?	5 A. You'd have to ask something more specific
6	A. I'd have to look back. I couldn't say.	6 than that.
7	Q. Okay.	7 Q. Okay. Well, let me show you something I'm
8	A. I couldn't say like this weekend was that,	8 going to mark as Plaintiff's Exhibit 1.
9	and this weekend was something else. I	9 (Plaintiff's Exhibit 1 was marked
10	can't recall.	10 for identification.)
11	Q. I understand, but do you think there was	11 Q. This is just something that I will
12	any --	12 represent to you that I pulled off the
13	I think you said earlier something to	13 Board of Optometry, State of Alabama's web
14	the effect of that there's a broad range of	14 site.
15	topics at these seminars; is that right?	15 MR. WHITE: You want to give us a
16	A. They're usually somewhere in the eight to	16 minute to read it? We haven't
17	12-hour range, and typically it will be	17 seen it before today.
18	broken up into two-hour segments. So on a	18 MR. ADAMS: I sure do. No
19	given weekend you might talk about glaucoma	19 problem.
20	for two hours or four hours at the most,	20 MR. WHITE: Just take your time
21	and you're going to talk about some other	21 and read through that.
22	topics the balance of the time.	22 Q. I'm not worried about '04 and '05. I'm
23	Q. Do you remember attending a seminar where	23 looking at the last one there.
	Page 42	Page 44
1	glaucoma was discussed or was a topic prior	1 MR. WHITE: You're taking about
2	to August of 2004?	2 .06 there at the bottom?
3	A. I have been to many seminars that have that	3 MR. ADAMS: Yes, I am.
4	as a topic, but I couldn't give you a date	4 Q. Have you had a chance to read that?
5	for it.	5 A. Not finished yet.
6	Q. Okay. Have you ever spoken in a seminar?	6 Q. Go ahead.
7	A. No.	7 MR. WHITE: Are you finished?
8	Q. Have you ever written any scholastic or	8 Okay.
9	practice-oriented materials?	9 Q. Okay. I'm looking at this rule titled
10	A. Not -- nothing that was published.	10 630-X-12-.06. Have you ever seen this rule
11	Q. Okay. What have you written?	11 before?
12	A. I haven't -- I don't recall writing	12 MR. WHITE: First of all, can you
13	anything recently. I haven't -- you know,	13 tell us what this is from and
14	we have local -- like you'll go down to	14 what the source of it is?
15	Montgomery on Tuesday evening to something,	15 MR. ADAMS: Sure. As I mentioned
16	and someone will speak down there for an	16 earlier, these are the rules
17	hour or two about a topic.	17 for Alabama optometrists as
18	Q. Okay. And did you write anything for that?	18 found on the state board of
19	A. Not in a long time.	19 optometry web site. And I'm
20	Q. Okay. Do you remember what topic you may	20 sorry I don't have an original
21	have written on at one time?	21 copy of their rules, but this
22	A. Unh-unh (negative response).	22 is printed out.
23	Q. That's a no? Okay.	23 MR. WHITE: This is a printout

<p style="text-align: right;">Page 45</p> <p>1 from the Internet from what 2 you say is a state board of 3 optometry web site?</p> <p>4 MR. ADAMS: Yes And, I mean, 5 we've been going about an 6 hour. If you want to go print 7 it yourself, that's fine, or 8 we can keep going.</p> <p>9 MR. WHITE: Why don't we do that? 10 Let's take a break. 11 (Brief recess.)</p> <p>12 Q. (Mr. Adams continuing) Dr. Bazemore, this 13 rule -- I'll just refer to it as .06 for 14 brevity. Prior to my handing this to you a 15 few moments ago, had you ever seen this 16 rule before?</p> <p>17 A. I have seen rules about the standard of 18 care. I don't know whether I've seen this 19 particular one that was filed on this 20 date. I couldn't say.</p> <p>21 Q. All right. And during a break just now, I 22 understand that your attorneys looked up 23 this rule on the Internet; is that correct?</p>	<p style="text-align: right;">Page 47</p> <p>1 his attorneys. Whether we 2 asked him to read something or 3 asked him not to read 4 something is attorney-client 5 privilege.</p> <p>6 MR. ADAMS: I'm not asking him 7 what you asked him or what you 8 said. I'm asking him did he 9 read it on the break.</p> <p>10 Q. Did you read over this rule during the 11 break?</p> <p>12 A. I've read this, you know, twice now.</p> <p>13 Q. Okay. And prior to today, I believe your 14 testimony is you're not sure if you've read 15 this before; is that correct?</p> <p>16 A. I have read the standard of care for 17 practicing optometry in Alabama.</p> <p>18 Q. All right. But as far as this specific 19 rule filed on January 20th, 1992, your 20 testimony is you don't know whether you've 21 read this rule prior to today or not; is 22 that correct?</p> <p>23 A. I think I have read it.</p>
<p style="text-align: right;">Page 46</p> <p>1 MR. WHITE: Object to the form. 2 That's attorney-client 3 privilege, and we're not going 4 to talk about what we just did 5 on a break.</p> <p>6 MR. ADAMS: We can talk about 7 whether he read it or not on 8 the break.</p> <p>9 MR. WHITE: Talking about whether 10 he read it right here. You 11 can't talk about what our 12 communications were with him 13 during your break in our room, 14 in closed conference.</p> <p>15 MR. ADAMS: I'm not asking him 16 about communication. I was 17 going to ask him about what he 18 did.</p> <p>19 MR. WHITE: Anything he did in the 20 room with us during a break is 21 attorney-client privilege. He 22 was there in the room with his 23 attorneys, communicating with</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. All right. And when did you read it?</p> <p>2 A. I've read it on more than one occasion. 3 And the thing is that they change these 4 some, and so -- but if this one is from 5 '92, I've read it more than once.</p> <p>6 Q. Okay. How often do you refer to the rules 7 governing optometrists in Alabama?</p> <p>8 A. I'm not sure what you're asking me.</p> <p>9 Q. Let me -- that's fine. That's not a real 10 good question.</p> <p>11 Do you have a copy of the rules, of 12 these rules in your practice?</p> <p>13 A. I have access to it over the Internet. I 14 don't keep a paper copy.</p> <p>15 Q. Okay. And prior to the break just a few 16 minutes ago, have you ever gone on the 17 Internet to read the rules?</p> <p>18 A. Yes, I have.</p> <p>19 Q. How many times would you say you've done 20 that?</p> <p>21 A. I probably do it about once a year.</p> <p>22 Q. Okay. And for what purpose would you do 23 that?</p>

		Page 49	Page 51
1	A. Just to see if it's been changed any.	1	think it's going to have an
2	Q. Okay. And when you go on the Internet, are	2	improper effect on discovery.
3	you reading the entirety of the rules or	3	So I will be glad to rephrase
4	are you mostly looking for a specific	4	my question.
5	rule? I mean, kind of explain what you	5	MR. WHITE: Great. Thank you.
6	do.	6	Q. Dr. Bazemore, as you sit here today, you're
7	MR. WHITE: Object to the form.	7	not prepared to disagree that this rule is
8	A. I can't recall that I read any specific	8	applicable to you, correct?
9	ones as far as reading all or some each	9	A. I'm not sure I understand this to be a
10	time, because that's not something I did	10	rule.
11	yesterday.	11	Q. All right. Well --
12	Q. Okay. When you refer to the rules on the	12	A. I haven't seen that word on here anywhere.
13	Internet, is that something you do when the	13	Q. All right. Well, that rule is not here,
14	need arises, or do you do it for some other	14	but you've had the opportunity to read it,
15	reason?	15	correct?
16	A. I'll look at it periodically to try to make	16	A. Correct.
17	sure that it is still the standard of care	17	Q. Okay. Do you disagree that this is a
18	that I understood to be applicable before	18	standard that you must adhere to as an
19	that.	19	optometrist practicing in this state?
20	Q. Okay. And this rule that I'm calling .06,	20	A. I think that this offers a standard of care
21	failure to meet the standard of care, you	21	to which we would all strive to at least do
22	have had an opportunity to read through	22	this if not better.
23	this, correct?	23	Q. Okay. So you agree, then, that it is a
		Page 50	Page 52
1	A. Correct.	1	minimum standard?
2	Q. And do you agree that this is the rule for	2	A. I'm not sure that I could say a blanket
3	optometrists in Alabama with respect to	3	statement, because I don't know what
4	failure to meet the standard of care?	4	particular instance you're applying the
5	MR. WHITE: Object to the form.	5	standard to. That varies depending on
6	A. I'm sorry. Could you repeat that for me	6	what's wrong with the patient.
7	one time?	7	Q. Okay. Well, the state regulations with
8	Q. Do you agree that this is the rule with	8	respect to optometrists, do you understand
9	respect to failure to meet the standard of	9	them to be aspirational goals or minimum
10	care for Alabama optometrists?	10	standards?
11	MR. WHITE: Let me interpose an	11	A. I would think that it would be a
12	objection here. And I'm	12	case-to-case thing; that this is not
13	not -- our objection is to	13	something you could say.
14	there may be different	14	Q. Do you know what I mean by aspirational
15	standards of care for	15	goals?
16	different circumstances. Now,	16	A. Something that you would long to achieve?
17	if you're talking about a	17	Q. Yes, that's fair.
18	standard of care for a general	18	A. Okay.
19	office visit, what should be	19	Q. Okay. And you understand what I mean by
20	done at --	20	minimum standards?
21	MR. ADAMS: I'm going to object to	21	A. Yes.
22	your speaking objection.	22	Q. Okay. Just the very minimum that one
23	Whether intended or not, I	23	should expect from an optometrist at an

	Page 53		Page 55
1	optometric visit. Is that a fair	1	case history?
2	definition?	2	A. Yes.
3	A. There is no minimum things that should be	3	Q. Okay. And it must include a determination
4	done at every office visit that comes in.	4	of refractive error?
5	It would vary depending upon the patient's	5	A. Yes.
6	needs.	6	Q. All right. Let's back up. How do you go
7	Q. Well, I'll tell you what. I don't know	7	about getting a case history?
8	why, but it seems like we're having trouble	8	A. It depends on whether it's a new patient or
9	with this, so let me just -- I'm going to	9	a former patient. New patients are asked
10	read this into the record, and you tell me	10	to fill out some questions, answer some
11	if I read anything wrong. Okay?	11	questions that are on the registration
12	630-X-12-06, failure to meet standard	12	form, and all of the patients, whether
13	of care. The board shall consider it	13	they're old or new patients, are given an
14	unprofessional conduct for a licensee to	14	oral case history.
15	provide for a patient care that is less	15	Q. Okay. And do you ask questions of the
16	than the generally accepted standard of	16	patients?
17	care. This standard of care shall include	17	A. Yes, I do.
18	but not be limited to providing certain	18	Q. Okay. What questions do you ask?
19	minimum testing for the patient when	19	A. Is this a new patient or an old patient?
20	performing a comprehensive eye exam. A	20	Q. Well, let's take a new patient first.
21	comprehensive eye exam shall include any	21	A. Okay. The questions that they're asked to
22	examination wherein a prescription for	22	fill in on the sheet are whether -- well,
23	glasses or contact lenses or necessity	23	there's several questions on there. I
	Page 54		Page 56
1	thereof is determined. Minimum testing for	1	don't have one in front of me. But
2	a comprehensive eye exam shall include a	2	basically, I'm going to go back through
3	case history, determination of refractive	3	those questions and ask them if there was
4	error, binocular vision evaluation,	4	any -- if there were yeses and nos on that,
5	ophthalmoscopy, evaluation of health of	5	then I'm going to explore the yeses and see
6	external eye and adjacent structures,	6	what's going on there. Then I will also
7	tonometry or other appropriate glaucoma	7	ask them some other questions under an oral
8	testing, and such other tests as are	8	history and write them down on the actual
9	necessary under the circumstances. Failure	9	front exam area of the medical record.
10	to perform said minimum testing during a	10	Q. All right. And what questions do you ask
11	comprehensive eye exam shall constitute	11	them on the oral history?
12	failure to meet the standard of care.	12	A. They're asked if they have been in before,
13	Did I read this paragraph correctly?	13	and if so, how long it has been. They are
14	A. I thought so, yes.	14	asked why they're there today. Was it time
15	Q. Okay. I didn't misstate anything?	15	for a routine exam, or are they having
16	A. No.	16	problems? If so, what kind of problem are
17	Q. All right. And do you agree that this is	17	they having? They're asked if they're on
18	the minimum that an optometrist should do?	18	any medicine for anything or have any
19	A. For a comprehensive eye exam?	19	general health problems or if they're
20	Q. Yes.	20	allergic to any medicine. They're asked if
21	A. I would agree with that.	21	they've ever had any operations or injuries
22	Q. Okay. So you agree that minimum testing	22	or infections or surgery on their eyes.
23	for a comprehensive eye exam must include a	23	They're asked if there's any family history

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1 of eye diseases or blindness in the 2 family. They're asked if they have any 3 general health problems, and if so, who's 4 their medical doctor that treats those and 5 what medications they're on and if they're 6 allergic to any medicine. 7 Let's see. I'm trying to go down the 8 list. I think that's about it. 9 Q. What about with an existing patient? What 10 kind of case history? 11 A. My part of asking them questions would be 12 the same. 13 Q. What about the forms for an existing 14 patient? 15 A. The medical record part with the exam 16 results looks the same either way. They're 17 just asked to fill out additional sheets 18 for their first visit. 19 Q. Okay. What is the purpose of a case 20 history? 21 A. To identify the problems and needs of the 22 patient and to try to remedy those. 23 Q. All right. And what kind of problems and	1 Q. Do you subscribe to any publications that 2 keep you apprised of new developments in 3 the optometric field? 4 A. Yes. 5 Q. What publications do you subscribe to? 6 A. Review of Optometry. American Optometric 7 Association has a thing they put out 8 monthly, a journal. Optometric 9 Management. Vision Monday is another. 10 Oh, goodness. Let's see. Which ones 11 have I said so far? 12 Q. Review of Optometry, American Optometric 13 Association publication, Optometric 14 Management, and Vision Monday. 15 A. Okay. There's another one called 20/20. 16 Q. Okay. Anything else that you take? 17 A. If so, I can't remember it right this 18 minute. 19 Q. So of these five publications you listed, 20 do you subscribe to all of them? 21 A. Yes. 22 Q. And is Review of Optometry -- how often 23 does that come out?
1 needs are you looking for? 2 A. Any kind they might have. 3 Q. Okay. Let me just kind of back up a 4 minute. Do you know what the leading 5 causes of blindness are, say, in this 6 country? 7 A. In this country? 8 Q. Yes, sir. 9 A. It varies from region to region, depending 10 on the demographics of the different 11 areas. Okay? Right now, probably the 12 leading cause in the country as a whole is 13 macular degeneration. 14 Q. Okay. What else? 15 A. Well, that would be the leading one. 16 Q. All right. Well, causes, I guess, is what 17 I intended to ask. I may not have -- but 18 what else is a leading cause of blindness? 19 A. Glaucoma would be one of the leaders and 20 probably -- I don't know. Past there, I 21 would be hesitant to say because they're 22 all the time updating that every six months 23 to a year.	1 A. Monthly. 2 Q. And you said American Optometric 3 Association is monthly? 4 A. Monthly. 5 Q. Optometric Management. How often? 6 A. Monthly. 7 Q. All right. And Vision Monday? 8 A. Monthly. 9 Q. And 20/20? 10 A. Same, monthly. 11 Q. All right. 12 A. The Alabama Optometric Association also 13 puts out a newsletter that's monthly. 14 Q. Now, how often do you read these 15 publications? I mean, do you read it cover 16 to cover every month? 17 A. Probably most of the time. 18 Q. Okay. And that would go for all of them, 19 all six of them? 20 A. (Witness nods head up and down.) 21 Q. Is that a yes? 22 A. Yes. 23 Q. All right. So based on what you were

<p style="text-align: right;">Page 61</p> <p>1 saying about the leading causes of 2 blindness being macular degeneration and 3 glaucoma, is it fair to say that two of the 4 problems that you are looking for would be 5 macular degeneration and glaucoma?</p> <p>6 A. That's correct.</p> <p>7 Q. Okay. And that would be the minimum of 8 what an optometrist should do, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And why is it important to recognize 11 whether a patient may have glaucoma?</p> <p>12 A. Well, to try to manage it and keep it from 13 preventing loss of vision.</p> <p>14 Q. So is it fair to say that you believe that 15 if glaucoma goes untreated, it can result 16 in blindness?</p> <p>17 A. That's possible.</p> <p>18 Q. And glaucoma, if untreated, can cause nerve 19 damage, correct?</p> <p>20 A. That's what the glaucoma is. It has to 21 deal with nerve damage.</p> <p>22 Q. Okay. And are you aware of any way -- are 23 you aware of any medical treatment to</p>	<p style="text-align: right;">Page 63</p> <p>1 Let me ask you this. What is 2 refractive error?</p> <p>3 A. Refractive error means that there is an 4 optical problem with your eye that keeps 5 the light from focusing on your retina 6 properly.</p> <p>7 Q. Okay. And how do you test for binocular 8 vision evaluation? How do you do a 9 binocular vision examination?</p> <p>10 A. There are several tests that are done for 11 that, and you just check to see how they 12 use their eyes together.</p> <p>13 Q. And why is that important?</p> <p>14 A. Well, because if they don't use their eyes 15 well together, they're missing out on 16 having, you know, the depth perception that 17 you get with binocular vision, as well as 18 their vision may not be as clear.</p> <p>19 Q. Okay. What is an ophthalmoscopy?</p> <p>20 A. Ophthalmoscopy --</p> <p>21 Q. Thank you.</p> <p>22 A. -- is a test where you look into the back 23 of their eye through their pupil.</p>
<p style="text-align: right;">Page 62</p> <p>1 reverse the effects of optical nerve 2 damage?</p> <p>3 A. No.</p> <p>4 Q. Okay. How do you determine refractive 5 error?</p> <p>6 A. Well, there are several instruments that 7 are used for that. There's something 8 called an autorefractor and there's 9 something called a retinoscope and there's 10 something called a phoropter. There's also 11 something called trial lenses. All of 12 those things are used quite regularly as 13 well as some others that are used less.</p> <p>14 Q. Okay. And which ones do you use in the 15 normal course of your practice?</p> <p>16 A. All of those.</p> <p>17 Q. Does each patient -- are they tested on 18 each one of those?</p> <p>19 A. If they're there for a comprehensive exam, 20 they are.</p> <p>21 Q. Okay. And when you are testing for 22 refractive error, what are you looking 23 for?</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. And what are you looking for there?</p> <p>2 A. Anything out of the ordinary.</p> <p>3 Q. Okay. And what are some examples of things 4 out of the ordinary that you might see 5 using that test?</p> <p>6 A. You may have macular degeneration we talked 7 about earlier. They could have diabetic 8 retinopathy. They could have a retinal 9 detachment. They could have -- I mean, 10 there would be a long, long, long, long, 11 long list.</p> <p>12 Q. Could you see -- I'm not sure how to say 13 this. Could you see glaukomflecken? I'll 14 bet I butchered that. How do you say 15 that?</p> <p>16 You're laughing at me, but that's all 17 right.</p> <p>18 A. No. I speak southern, so, you know...</p> <p>19 Q. In Atlanta, they think I speak very 20 southern.</p> <p>21 Well, what -- can you see that using 22 that device?</p> <p>23 A. Can you reword what you're looking for</p>

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1 there?	1 at the school you graduated from?
2 Q. Well, let me ask you this. I'm going to	2 A. Professor at UAB.
3 spell it. G-L-A-U-K-O-M-F-L-E-C-K-E-N. Do	3 Q. Okay. Well, according to his book,
4 you know what that is?	4 glaukomflecken -- and I'm going to use a
5 MR. WHITE: Spell it again for	5 word he doesn't use. I would say residue
6 him.	6 of prior glaucoma attacks that appear as
7 MR. ADAMS: Sure.	7 small gray-white areas just beneath the
8 Q. G-L-A-U-K-O-M-F-L-E-C-K-E-N.	8 anterior capsule of the lens in the
9 A. Okay.	9 pupillary zone.
10 Q. What is that?	10 Does that sound like something that you
11 A. It sounds to me --	11 look for?
12 MR. WHITE: Hold on. If you know	12 MR. WHITE: Object to the form.
13 what it is, answer the	13 You want to just show him the
14 question. Don't guess if you	14 article?
15 don't know.	15 MR. ADAMS: I will in a minute.
16 A. I'm not sure what they're referring to in	16 I'm really not trying to get
17 that particular article.	17 specifically on this topic
18 MR. WHITE: Just for the record,	18 now. I'm just asking. I'm
19 you're reading something out	19 interested in this test and if
20 of an article which you	20 he looks for that test.
21 haven't presented to him, and	
22 you just asked him about a	21 A. Ophthalmoscopy?
23 word in that article.	22 Q. Yes, sir.
	23 A. You're really not looking at the lens.
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1 MR. ADAMS: Yes. It's actually --	1 You're looking all the way in the back at
2 I will present it as an	2 the retina.
3 exhibit later. It's actually	3 Q. Okay. Thank you. That helps me out.
4 a chapter out of a textbook,	4 Going further in this standard here,
5 and we'll talk about it later.	5 evaluation of health of external eye and
6 Q. So is it fair to say you're not sure	6 adjacent structures. How do you evaluate
7 whether you can visualize that	7 the health of external eye and adjacent
8 glaukomflecken on an ophthalmoscopy or not,	8 structures?
9 correct?	9 A. I'll look at that with my eyes. I also
10 A. I couldn't say without knowing what they're	10 have a little flashlight that I use to look
11 referring to with the glaukomflecken.	11 at the area, and you also would look at
12 Q. All right. Well, I can represent to you	12 some of that with the slit-lamp microscope.
13 that glaukomflecken as defined in	13 Q. All right. And what are you looking for?
14 Dr. Bartlett, who --	14 A. Again, that's just way too open. There
15 Was he one of your professors at UAB?	15 would be books full of stuff.
16 A. No, he wasn't there when I was.	16 Q. Okay. Well, let's say if you are concerned
17 Q. But you know who Jimmy Bartlett is?	17 that someone may be at risk for glaucoma,
18 A. (Witness nods head up and down.)	18 what would you be looking for?
19 Q. Is that a yes?	19 A. I would look for that in every patient that
20 A. Yes.	20 comes in the door. Okay? And you look at
21 Q. Okay. And you recognize him as somebody	21 their iris. You look at their cornea. You
22 competent to write on the subject of	22 look at the anterior chamber angle. You
23 optometry? You recognize he's a professor	23 look at the lens that you were referring to

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<p>1 a minute ago. You check the pressure.</p> <p>2 Q. And you would look for those things in 3 every patient that comes through the door 4 because glaucoma is a serious eye disease, 5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And it can result in blindness, correct?</p> <p>8 A. It can.</p> <p>9 Q. And irreversible damage to the optic nerve, 10 correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Do you ever use gonioscopy?</p> <p>13 A. Yes.</p> <p>14 Q. And what do you use the gonioscopy for?</p> <p>15 A. It's used to examine the anterior chamber 16 angle.</p> <p>17 Q. And what are you looking for there?</p> <p>18 A. You're looking for any kind of damage there 19 or pigment deposition or anything that 20 would be out of the normal.</p> <p>21 Q. What is tonometry?</p> <p>22 A. It measures the pressure inside your eye.</p> <p>23 Q. And what are the different types of</p>	<p>1 A. I use all of them, you know. And it's nice 2 to have more than one way to do it because 3 you can double check one thing against the 4 other on the different types.</p> <p>5 Q. Okay. And you've testified that the 6 circumstances under which you would double 7 check is if you want to be extra sure of a 8 patient's intraocular eye pressure, 9 correct?</p> <p>10 MR. WHITE: Object to the form. I 11 don't think that's what he 12 said.</p> <p>13 A. That's not what I said.</p> <p>14 Q. I didn't say extra sure, so -- or you 15 didn't say that.</p> <p>16 Can you tell us again under what 17 circumstances you would want to double 18 check a patient's intraocular eye pressure?</p> <p>19 A. One, if the reading on the initial test was 20 questionable; and two, if they have any 21 other signs that would make you extra 22 concerned about that.</p> <p>23 Q. And what type of other signs would you be</p>
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<p>1 tonometry?</p> <p>2 A. The three that are used the most are a 3 noncontact tonometer, a Tonopen, and a 4 Goldmann tonometer.</p> <p>5 Q. And which ones do you use?</p> <p>6 A. I usually use either the Goldmann or the 7 air puff. Sometimes I'll do both on the 8 same patient.</p> <p>9 Q. Okay. And under what circumstances would 10 you do both on the same patient?</p> <p>11 A. If I'm not satisfied with the results from 12 the first one, then I'll double check it 13 with the other one.</p> <p>14 Q. And why is checking eye pressure important?</p> <p>15 A. It's one of the tests that you use in 16 diagnosing glaucoma.</p> <p>17 Q. And when I say eye pressure, you understand 18 that to mean intraocular eye pressure?</p> <p>19 A. I assumed that's what you were talking 20 about.</p> <p>21 Q. All right. And is one method of tonometry 22 more favored than any other in your 23 opinion?</p>	<p>1 concerned -- thinking of when you said 2 that?</p> <p>3 A. There would be a lot of them. A lot of 4 signs.</p> <p>5 Q. All right. What are the signs and symptoms 6 of glaucoma?</p> <p>7 A. The optic nerve where the damage occurs, 8 you can look back there, and it may be that 9 you can see where there's some apparent 10 damage that you want to spend a little 11 extra time working up. If there's a strong 12 family history of glaucoma and you want to 13 be extra careful. Things like that.</p> <p>14 Q. What about seeing halos around lights? Is 15 that a sign or symptom of glaucoma?</p> <p>16 A. It can be. It's more often something 17 else.</p> <p>18 Q. Okay. What else?</p> <p>19 A. Refractive error, cataracts, a scar on 20 their cornea. A lot of other reasons for 21 it besides that.</p> <p>22 Q. Have you ever had -- Okay. Well, let me 23 ask you. You said that it can be a sign</p>

<p style="text-align: right;">Page 73</p> <p>1 and symptom of glaucoma, correct?</p> <p>2 A. Uh-huh (positive response).</p> <p>3 Q. Is that a yes?</p> <p>4 A. I don't see that very much. It can be.</p> <p>5 Q. It can be. All right. So you've stated</p> <p>6 glaucoma is a serious eye disease that can</p> <p>7 cause blindness, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. So is glaucoma something that you</p> <p>10 would want to rule out for a patient</p> <p>11 presenting with seeing halos around</p> <p>12 lights?</p> <p>13 A. Correct.</p> <p>14 Q. And would ruling out glaucoma involve doing</p> <p>15 more than one method of tonometry?</p> <p>16 A. It would depend on the reading that I got</p> <p>17 on the first type. It would depend on the</p> <p>18 appearance of the optic nerve head. It</p> <p>19 would depend on whether they have other</p> <p>20 problems like a cataract or corneal</p> <p>21 scarring or other problems. How open</p> <p>22 their anterior chamber angle is. That's</p> <p>23 not something that you could say for</p>	<p style="text-align: right;">Page 75</p> <p>1 ophthalmologist?</p> <p>2 A. Just every day, yes.</p> <p>3 Q. Okay. And that's because you want to</p> <p>4 prevent serious eye problems; is that</p> <p>5 correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And that's because you recognize that while</p> <p>8 you are an individual, as you testified</p> <p>9 earlier, trained to examine eyes, you</p> <p>10 understand that there are things that an</p> <p>11 ophthalmologist is trained to do that you</p> <p>12 are not qualified or trained to do; is that</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Is there any treatment for glaucoma that an</p> <p>16 ophthalmologist is able to provide a</p> <p>17 patient that you are not able to provide a</p> <p>18 patient?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Tell me about that.</p> <p>21 A. Any surgical procedure that would be</p> <p>22 indicated.</p> <p>23 Q. And what surgeries are used to correct</p>
<p style="text-align: right;">Page 74</p> <p>1 everybody.</p> <p>2 Q. Okay. If a patient presented with seeing</p> <p>3 halos around lights and pain, headaches,</p> <p>4 what would you be concerned with?</p> <p>5 A. I don't think you could tell -- you</p> <p>6 couldn't say anything that -- the same shoe</p> <p>7 doesn't fit everybody. You can't say what</p> <p>8 you would do without having an individual</p> <p>9 there with more input, information than</p> <p>10 what you're giving me.</p> <p>11 Q. And the way you get more input and</p> <p>12 information is to conduct testing, is that</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Okay.</p> <p>16 A. And ask questions.</p> <p>17 Q. Under what circumstances would you refer a</p> <p>18 patient like that to an ophthalmologist?</p> <p>19 A. If there were enough findings that were</p> <p>20 positive that that patient might have</p> <p>21 glaucoma, then I would refer them to an</p> <p>22 ophthalmologist.</p> <p>23 Q. Have you ever referred a patient to an</p>	<p style="text-align: right;">Page 76</p> <p>1 glaucoma and intraocular pressure?</p> <p>2 MR. WHITE: Object to the form.</p> <p>3 You're asking about what an</p> <p>4 ophthalmologist does, and I</p> <p>5 don't know that he's qualified</p> <p>6 to answer these questions. If</p> <p>7 you're just asking him if he</p> <p>8 knows, I guess he can answer.</p> <p>9 MR. ADAMS: Sure. You're right.</p> <p>10 Q. Do you know?</p> <p>11 A. I have no reservation about answering that,</p> <p>12 and it would not be any one thing for any</p> <p>13 one patient. It would depend on the</p> <p>14 particular patient.</p> <p>15 Q. Okay. But do you agree that surgery is</p> <p>16 sometimes necessary to correct glaucoma?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Where it says tonometry or other</p> <p>19 appropriate glaucoma testing, what other</p> <p>20 testing is appropriate to detect glaucoma?</p> <p>21 A. Probably -- well, there's several mainstays</p> <p>22 on that. Okay. One is the pressure in</p> <p>23 your eye, okay, and looking at the optic</p>

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<p style="text-align: right;">Page 77</p> <p>1 nerve as we've already talked about. A 2 family history. Their age. Their 3 ethnicity. All of these are risk factors 4 that you have to take into account when 5 you're trying to determine if they have 6 glaucoma or not.</p> <p>7 Q. Okay. But as far as tests go, is there any 8 test in addition to tonometry that you 9 find -- you would believe would be 10 appropriate to use in determining glaucoma?</p> <p>11 A. Okay. Like I said, you do the 12 ophthalmoscopy where you look with the 13 microscope, and it makes their optic nerve 14 look larger and you look for any signs of 15 damage that might occur from them having 16 glaucoma. You also look for any kind of 17 problems in the anterior segment, in the 18 front part of your eye that would be 19 contributing to the problem if there's some 20 anatomical problem there. Visual field is 21 the test that you use to check for 22 peripheral vision loss secondary to nerve 23 damage that you get with glaucoma. You</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. On the slit lamp? 2 A. Uh-huh (positive response). 3 Q. Okay. 4 A. And then you would also do the gonioscopy 5 after that, too. 6 Q. Whether or not it showed up on the -- 7 A. No. 8 Q. -- slit lamp? Okay. 9 Well, if a patient presented with 10 symptoms of headaches and seeing halos 11 around lights, what type of glaucoma would 12 you be concerned that the patient might 13 have, if any? 14 A. That would not be the first thing I would 15 look for if they came in with halos. 16 Q. What's the first thing you would look for? 17 A. The list that we went over before. 18 Q. The refractive error? 19 A. Refractive error, corneal scarring, 20 cataracts, retinal problems in the macula, 21 you know, and then the other would be 22 the -- the glaucoma would be on down on the 23 list as far as frequency of occurrence.</p>
<p style="text-align: right;">Page 78</p> <p>1 know, there's several -- a lot of tests 2 that can be done.</p> <p>3 Q. Okay.</p> <p>4 A. Depends on the individual patient.</p> <p>5 Q. And what would you use to examine the angle 6 of the eye?</p> <p>7 A. You can use the slit lamp, you can use the 8 gono lens with the slit lamp, and they now 9 have an instrument that is just coming out 10 called an optical coherence tomography, 11 which is a digital scanning type of thing 12 that can take pictures of that.</p> <p>13 Q. Okay.. Which works better for examining the 14 angle of the eye, the slit lamp or the 15 gonioscopy?</p> <p>16 A. The gonioscopy is done as a second 17 procedure to the other if you see a problem 18 on the first one.</p> <p>19 Q. Okay. Would you use the gonioscopy to 20 be -- to satisfy yourself that the patient 21 did not have angle closure glaucoma?</p> <p>22 A. If he has angle closure glaucoma, it will 23 show up on the first test.</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. And you testified earlier that you -- but 2 you would want to satisfy yourself that it 3 wasn't glaucoma, correct?</p> <p>4 A. I'm going to test for glaucoma in that 5 patient.</p> <p>6 Q. Okay. Are you familiar with any literature 7 on the treatment and diagnosis of eye 8 disease that says that the puff test 9 tonometry is not as reliable as Goldmann 10 tonometry?</p> <p>11 A. I have read articles that stated that and 12 others that stated that was not true.</p> <p>13 Q. Okay. And as you sit here today, are you 14 aware of what the prevailing medical 15 opinion is with respect to whether the puff 16 test is better or whether the Goldmann 17 tonometry is better?</p> <p>18 A. Again, that would depend on who you ask.</p> <p>19 Q. Well, what is your opinion?</p> <p>20 A. I would say, like I said earlier, if 21 there's any question about whether one or 22 the other is not accurate, I'll do the 23 other also on that patient.</p>

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<p>1 Q. So if I understand you right, the slit lamp 2 exam is the primary method that you use. 3 That's the first method you use to examine 4 the angle of the eye, correct?</p> <p>5 A. Correct. That's done on all patients that 6 are getting a full eye exam.</p> <p>7 Q. All right. And so if the gonioscopy is the 8 second test you use, is it fair to say that 9 you believe the gonioscopy is a more -- 10 provides a more sophisticated view of the 11 eye?</p> <p>12 MR. WHITE: Object to the form.</p> <p>13 Q. I'll rephrase that. Is it fair to say that 14 the gonioscopy, in your view, provides a 15 more detailed and extensive view of the 16 eye?</p> <p>17 A. Only of one area of the eye. Not of the 18 whole eye.</p> <p>19 Q. Okay. And what area is that?</p> <p>20 A. The anterior chamber angle.</p> <p>21 Q. Okay. And that is the angle where angle 22 closure glaucoma occurs, correct?</p> <p>23 A. That's correct.</p>	<p>1 MR. WHITE: Let me object to the 2 form of that as being over 3 broad.</p> <p>4 Q. Okay. Where it says -- and then the last 5 part there says, failure to perform minimum 6 testing -- excuse me -- failure to perform 7 said minimum testing during a comprehensive 8 eye exam shall constitute failure to meet 9 standard of care.</p> <p>10 You agree that these tests that we 11 spent the last half hour or so talking 12 about here are the minimum?</p> <p>13 A. Yes.</p> <p>14 Q. As an optometrist, do you aspire to give 15 your patients the minimum care or do you 16 aspire to give them something greater than 17 the minimum?</p> <p>18 A. Normally I would do more tests than what 19 they've listed here on the comprehensive 20 eye exam.</p> <p>21 Q. Okay. And why is that?</p> <p>22 A. To try to provide good quality of care to 23 the patient.</p>
<p>1 Q. Okay. Here in this rule and regulation 2 here it says, and such other tests as are 3 necessary under the circumstances. What 4 other tests that we haven't talked about do 5 you use or do you have available in your 6 practice?</p> <p>7 A. There are a lot of tests that are available 8 in the practice. Can you give me -- narrow 9 the field a little bit on that?</p> <p>10 Q. I'm not sure I can. I'm just wondering 11 what it might be talking about there.</p> <p>12 A. I think you would be wise to have a more 13 specific question, you know. I mean, are 14 we talking about how to determine their 15 glasses prescription or to look for, you 16 know, retinal problems or to look for 17 corneal problems?</p> <p>18 Q. I'm just trying to understand how you 19 interpret this regulation. So if you can 20 think of any other tests that might be 21 necessary under any circumstance, then you 22 can just list them.</p> <p>23 A. I really couldn't say.</p>	<p>1 Q. Okay. And that's because you understand 2 that patients come to you seeking your 3 expertise for their eye problems, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Which could include glaucoma, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And other eye problems that could place 8 them at risk for vision loss, correct?</p> <p>9 A. That would be one of the reasons. That 10 wouldn't be the only reason.</p> <p>11 Q. Okay. Now, we had some discussion earlier 12 about what this paragraph was, and I 13 represent to you that it is a regulation 14 found and said to be applicable to 15 optometrists in Alabama found on the 16 Alabama State Board of Optometry web site. 17 Whether or not you agree that this is a 18 regulation of the Alabama State Board of 19 Optometry, again, you do agree that this is 20 the minimum -- this lays out the minimum of 21 what an optometrist should do, correct?</p> <p>22 MR. WHITE: Object. I think he 23 was asked and answered that a</p>

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<p>1 while back. I think we 2 answered that right after we 3 came back in after our break.</p> <p>4 A. Depends on what the patient is coming in 5 for.</p> <p>6 Q. You don't disagree with any of this here, 7 do you, that we've just read over?</p> <p>8 MR. WHITE: Are you talking about 9 .06 again?</p> <p>10 MR. ADAMS: Yes, I am.</p> <p>11 A. I think we've -- like we've already 12 answered this before. If they're coming in 13 for a comprehensive eye exam, which is on 14 line four there, then all of these tests 15 should be done.</p> <p>16 Q. Okay. Good.</p> <p>17 Now, as a medical professional 18 practicing in the state of Alabama, you're 19 aware that Alabama -- just based on 20 statistics out there, Alabama is deemed to 21 be a good health care state, correct?</p> <p>22 MR. WHITE: Object to the form.</p> <p>23 Q. Do you understand what I'm talking about?</p>	<p>1 you're asking him --</p> <p>2 MR. ADAMS: That was a horrible 3 question. I'll rephrase it.</p> <p>4 Q. Do you know whether Alabama is regarded as 5 a state where the availability of quality 6 health care is high or low as compared to 7 other states?</p> <p>8 MR. WHITE: Object to the form.</p> <p>9 You can answer if you know or 10 you understand.</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. Is it your opinion that -- do you 13 believe patients seeking optometric care in 14 Alabama should expect a level of care that 15 is on par with other states in the U.S.?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And as it relates to other optometry 18 schools, are you aware of UAB's ranking?</p> <p>19 A. Not for sure.</p> <p>20 Q. Okay. Are you aware, is it better than 21 average among optometry schools?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Would it be regarded as one of the</p>
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<p>1 A. I haven't read an article on that any time 2 lately.</p> <p>3 Q. Okay. Well, you are aware -- 4 You've testified that you have lived in 5 Alabama most of your life, correct?</p> <p>6 A. Correct.</p> <p>7 Q. And you've testified that you've been 8 practicing optometry for the last 27 years 9 or so in Alabama, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Have you ever seen any literature 12 out there that addresses whether or not the 13 state of Alabama enjoys -- as compared with 14 other states in the U.S., enjoys a good 15 quality available to patients in terms of 16 health care, or is it below, say, what the 17 average -- is it above average or below 18 average in your -- based -- in your 19 understanding?</p> <p>20 MR. WHITE: Let me object to the 21 question. You started off the 22 question by asking whether 23 he's read anything, and now</p>	<p>1 best optometry schools in the country?</p> <p>2 A. I couldn't say.</p> <p>3 Q. All right. So it's fair to say that it's 4 better than average?</p> <p>5 A. Yes.</p> <p>6 Q. And you've indicated that that is where you 7 sometimes attend continuing education 8 courses, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay. Do you agree that the availability 11 of the instruction in your continuing 12 education courses is high quality?</p> <p>13 A. Yes.</p> <p>14 Q. And that the instructors and folks at 15 UAB -- That's a bad way to put that. Let 16 me rephrase it.</p> <p>17 Do you agree that the faculty at UAB is 18 high quality as compared with instructors 19 at other optometry schools around the 20 country?</p> <p>21 MR. WHITE: Object to the form.</p> <p>22 You can answer.</p> <p>23 A. I couldn't say.</p>

	Page 89		Page 91
1	Q. Okay. The continuing education that you	1	Q. Well, let me say this. I mean, if I went
2	attend at UAB, do you attend anywhere else?	2	to an optometrist in Atlanta, would I
3	A. I was -- I went to New York for one last	3	expect him to be using any different
4	year.	4	technology, based on your knowledge, than
5	Q. All right. But do you usually go to the	5	what you offer in your practice?
6	ones at UAB?	6	A. I really couldn't say.
7	A. I would go there more often than any other	7	Q. All right. Let's just say -- are you
8	one place.	8	satisfied that you're employing the most
9	Q. All right. Who does those seminars? Is it	9	up-to-date and advanced technology for eye
10	primarily the UAB professors of optometry?	10	care that is available?
11	A. They speak, and they also have outside	11	A. I think for my practice that I have good
12	speakers come in.	12	equipment.
13	Q. Okay. So as a practicing optometrist,	13	Q. Okay. And you -- and that was true in
14	would you agree that the most current	14	2004, correct?
15	information in the field of optometry is	15	A. Correct.
16	made available to you?	16	Q. And that was true in August of 2004,
17	A. Yes.	17	correct?
18	Q. Okay. And that would be the most current	18	A. Correct.
19	information in the U.S., in the whole	19	Q. I'm just going through my outline and
20	United States, is made available to you at	20	making sure we've covered things so we can
21	UAB in the area of optometry?	21	move forward.
22	MR. WHITE: Object to the form.	22	What are the signs and symptoms of
23	A. I really am not in a position to say. I	23	angle closure glaucoma?

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1	haven't been to the others.	1	A. Their eye is normally red, their pupil is
2	Q. Okay. But you take publications that	2	mid dilated and not very active, their eye
3	are --	3	is usually very sore, and their pupil -- I
4	A. Uh-huh (positive response).	4	mean, and their pressure in their eye is
5	Q. -- national publications, correct?	5	going to be real high, 40 or 50 as opposed
6	A. Yes.	6	to a normal of 15 to 20.
7	Q. Okay. And would you say that the	7	Q. Anything else?
8	information made available to you at the	8	A. Depending on how long their pressure has
9	UAB continuing education seminars is	9	been up, their cornea might be a little bit
10	current with those publications?	10	cloudy. That's about all I could say that
11	A. Yes.	11	would be for sure.
12	Q. Okay. It's not lagging behind? It's not	12	Q. With angle closure glaucoma, is the
13	outdated, correct?	13	pressure constantly up or can it vary?
14	MR. WHITE: Object to the form.	14	A. That would be on a case-to-case thing. It
15	A. Yes.	15	can vary.
16	Q. And would you say that the same technology,	16	Q. It can vary?
17	the same optometric technology is available	17	A. (Witness nods head up and down.)
18	to you as would be available in any other	18	Q. Is that a yes?
19	state --	19	A. If the pressure is not elevated, then they
20	MR. WHITE: Object to the form.	20	are not considered to have glaucoma at that
21	Q. -- just based on your understanding?	21	point.
22	A. Could you rephrase that? I'm not sure what	22	Q. But your testimony is that with angle
23	you're asking.	23	closure glaucoma, the pressure in the eye

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<p>1 can vary, correct?</p> <p>2 A. If the angle is closed, then the pressure</p> <p>3 will be elevated.</p> <p>4 Q. Does the angle -- with angle closure</p> <p>5 glaucoma, is the angle always closed?</p> <p>6 A. There are different kinds of angle closure</p> <p>7 glaucoma.</p> <p>8 Q. Okay. And what are the kinds of angle</p> <p>9 closure glaucoma?</p> <p>10 A. You can have a primary kind, you can have a</p> <p>11 secondary kind, and the secondary kind</p> <p>12 would be due to various things.</p> <p>13 Q. Okay. What is primary?</p> <p>14 A. The angle just closes off because of the</p> <p>15 anatomical shape of the person's anterior</p> <p>16 chamber angle.</p> <p>17 Q. All right. What is secondary?</p> <p>18 A. It has several different reasons that that</p> <p>19 could happen.</p> <p>20 Q. Okay. Can you give me some of them?</p> <p>21 A. They could have pigmentary glaucoma where</p> <p>22 it's clogging the trabecular meshwork.</p> <p>23 They could have an angle recession where</p>	<p>1 A. I couldn't say. It would depend on other</p> <p>2 things about the patient.</p> <p>3 Q. Okay. But would you still want to run</p> <p>4 tests for glaucoma if their history --</p> <p>5 A. Every patient that comes in gets tested for</p> <p>6 glaucoma.</p> <p>7 Q. How is angle closure glaucoma managed?</p> <p>8 A. That would vary from case to case. I</p> <p>9 couldn't say.</p> <p>10 Q. All right. Well, just say primary angle</p> <p>11 closure glaucoma. How do you manage that?</p> <p>12 A. It depends on the elevation of the</p> <p>13 pressure, and I don't manage that. That's</p> <p>14 up to the ophthalmologist.</p> <p>15 Q. You would send that person to an</p> <p>16 ophthalmologist?</p> <p>17 A. Yes.</p> <p>18 Q. What about secondary angle closure</p> <p>19 glaucoma? How is that managed?</p> <p>20 A. If the pressure is elevated, it goes to the</p> <p>21 ophthalmologist.</p> <p>22 Q. And what if the pressure is not elevated at</p> <p>23 that particular time?</p>
<p>1 there's damage to the trabecular meshwork.</p> <p>2 There are others that we can look up if you</p> <p>3 want to.</p> <p>4 Q. Well, I'm just asking you the ones you</p> <p>5 remember as you sit here right now.</p> <p>6 A. Right.</p> <p>7 Q. Is that all of them?</p> <p>8 A. You can have -- anything that got inside</p> <p>9 your eye, if you had trauma to your eye,</p> <p>10 and it -- there are other iris and corneal</p> <p>11 degenerative conditions that release cells</p> <p>12 that clog up the trabecular meshwork.</p> <p>13 Q. When is glaucoma an emergency?</p> <p>14 A. If they came in and the pressure is very</p> <p>15 high, then I'm going to pick up the phone</p> <p>16 and call the ophthalmology office and</p> <p>17 they're going over there then.</p> <p>18 Q. Okay. And what if they come in and they --</p> <p>19 their history is that they're having some</p> <p>20 signs and symptoms of glaucoma, but their</p> <p>21 pressure is not high? What do you do for</p> <p>22 that kind of patient? It's not high at</p> <p>23 that visit.</p>	<p>1 A. And what other signs make you think that</p> <p>2 they have glaucoma at that point?</p> <p>3 Q. Well, I'm -- that's a good question. What</p> <p>4 other signs would there be that would make</p> <p>5 you be concerned about glaucoma?</p> <p>6 A. Well, there's a lot of them, you know.</p> <p>7 We've been through this. But if their</p> <p>8 optic nerve head shows damage, if their</p> <p>9 cornea shows damage from the pressure being</p> <p>10 too high and other things like that that</p> <p>11 you have to look for as well as just the</p> <p>12 pressure.</p> <p>13 Q. All right. Well, you've testified earlier</p> <p>14 that with angle closure glaucoma, there is</p> <p>15 a type of angle closure glaucoma where the</p> <p>16 pressure is not constantly elevated,</p> <p>17 correct?</p> <p>18 A. That's right.</p> <p>19 Q. All right. Would that be what's called</p> <p>20 acute angle closure glaucoma?</p> <p>21 A. It would depend on whose book you were</p> <p>22 reading. The terms primary and secondary</p> <p>23 include that secondary are due to other</p>

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<p>1 secondary causes. Acute just means that 2 the pressure is real high.</p> <p>3 Q. Well, let me ask you this. What type of 4 glaucoma are you talking about when you say 5 that -- when you say that there is a type 6 of glaucoma where the pressure is not 7 constantly high, it can come and go? What 8 type of glaucoma is that?</p> <p>9 A. That would usually -- it kind of depends 10 on -- like I said earlier, there's 11 variation in the pressure anyway. But if 12 you have something -- if you're on certain 13 medications that might cause your pupil to 14 be dilated versus not dilated or if you 15 have some -- well, there's a lot of 16 things. I just really couldn't answer that 17 for a blanket statement.</p> <p>18 Q. All right. You have stated, again, that 19 there is a type of angle closure glaucoma 20 where the pressure is not constantly elevated, correct?</p> <p>21 A. That's my understanding.</p> <p>22 Q. Okay. If a patient presents in your office</p>	<p>1 you've never seen before.</p> <p>2 A. Okay.</p> <p>3 Q. What would you do?</p> <p>4 A. I would first of all see what other things 5 might be wrong that would cause the 6 symptoms that you're talking about. Those 7 are not limited to having glaucoma. In 8 fact, that would be down the list of causes 9 for those symptoms. It would be more 10 common for them to have some other problems 11 that would cause that.</p> <p>12 If I had seen them before, then what I 13 did or didn't do would be based on whether 14 there was continuity from the times before, 15 whether something was changing.</p> <p>16 Q. Okay. Can glaucoma be managed via self-care at home?</p> <p>18 A. That would depend on the type of glaucoma.</p> <p>19 Q. Angle closure glaucoma. Can that be managed at home?</p> <p>21 A. No.</p> <p>22 Q. Not via self-care; correct?</p> <p>23 A. I don't know of any cases where that's</p>
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<p>1 with signs and symptoms of glaucoma but not 2 at that particular time elevated pressure, 3 what do you do for that patient?</p> <p>4 A. Again, it would depend on what other signs 5 and symptoms there were. Okay? And the 6 decision of when to have them back and 7 check for this or that would depend on the 8 other signs and symptoms if the pressure is 9 normal.</p> <p>10 Q. All right. Well, what if that sign and 11 symptom -- 12 I'm sorry. Did I cut you off?</p> <p>13 A. Well, I'm just -- you know, I don't know if the pressure -- Well, that's all I know to say.</p> <p>16 Q. What if the other signs and symptoms are -- 17 include headaches and seeing halos around 18 lights and blurry vision, but the pressure 19 is not high at that particular time? What 20 would you do for that patient?</p> <p>21 A. Was this a new patient that I've never seen before?</p> <p>23 Q. Let's take both situations. New patient</p>	<p>1 happened.</p> <p>2 Q. Okay. If you suspect a patient of angle closure glaucoma, do you -- what do you do? If you suspect a patient of angle closure glaucoma, and you're at the end of the appointment, what next?</p> <p>7 MR. WHITE: Object to the form. 8 Can you define what you mean 9 by suspect? I mean, I think 10 he's already said what he does 11 when they determine they have 12 glaucoma.</p> <p>13 Q. All right. If you are of the opinion that they may have angle closure glaucoma, and you're at the end of the appointment, what do you do?</p> <p>17 A. I'm going to walk in and pick up the phone 18 and call Medical Arts and ask them if he 19 can go over there and let them look at him.</p> <p>20 Q. Okay. And that's because you understand 21 that angle closure glaucoma is a medical emergency, correct?</p> <p>23 A. Correct.</p>

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1 Q. Other than loss of vision and damage to the 2 optical nerve, what other harm could come 3 to a patient who is not treated for angle 4 closure glaucoma?	1 that. And I did not intend for this copy 2 to be so hard to read. It's just the way 3 it came out. 4 And obviously, you, of course, 5 recognize that to be the human eye, 6 correct? A diagram of the human eye?
5 A. Could you ask me something more specific? 6 Q. Yes. Let me back up and say it different. 7 Assuming a patient has angle closure 8 glaucoma, you agree, you've testified 9 earlier, that if they're not treated, they 10 could suffer nerve damage, correct? 11 A. Right.	7 A. Yes. 8 Q. Okay. Could you with this pen, please, 9 circle for me the areas of concern, the 10 areas that you would examine for a patient 11 who has -- who presents with some signs and 12 symptoms of glaucoma. With this blue pen 13 would you please circle the areas of the 14 eye that you would want to examine?
12 Q. And they could suffer vision loss, correct? 13 A. Correct. 14 Q. Okay. And that includes not only loss of 15 visual acuity, but loss of the vision 16 field, correct? 17 A. Visual field? 18 Q. Yes. Thank you. 19 A. Yes. 20 Q. Okay. Now, what other medical problems or 21 what other harm could come to that patient? 22 MR. WHITE: Talking about as a 23 result of glaucoma?	15 MR. WHITE: Let me object to that 16 on the grounds that -- when 17 you say some signs and 18 symptoms of glaucoma, I 19 don't -- I mean, that's a 20 pretty vague question. 21 A. The areas of the eye that we would want to 22 look at if we were concerned with glaucoma 23 would be these areas.
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1 Q. As a result of angle closure glaucoma? And 2 if you want to start out with glaucoma and 3 move to the more specific, that's fine. 4 A. Say it one more time. 5 Q. Okay. We've already discussed and you've 6 already stated that nerve damage and visual 7 loss can result if angle closure glaucoma 8 goes untreated. What else can happen to 9 that patient that is harmful if the angle 10 closure glaucoma is untreated? 11 A. I would need a more specific question than 12 that. I'm not sure what you're asking. 13 Q. All right. 14 (Brief recess.) 15 MR. ADAMS: Let's go back on the 16 record. I am going to mark 17 what I'm going to call 18 Plaintiff's Exhibit 2. 19 (Plaintiff's Exhibit 2 was marked 20 for identification.) 21 Q. (Mr. Adams continuing) And Dr. Bazemore, 22 I'm going to hand that to you and your 23 attorney, if you'll just take a look at	1 MR. WHITE: And for the record, 2 you've indicated with your 3 finger, circling the entire 4 eye on the diagram; is that 5 correct? 6 THE WITNESS: That's correct. 7 Q. All right. Well, if you were concerned -- 8 And you'll have to forgive me. I'm 9 obviously a novice when it comes to 10 understanding the human eye, and you are 11 not. So I am asking you questions that may 12 seem beneath you at times. But if you will 13 please mark the areas of concern, the areas 14 of the eye that you would want to examine 15 if a patient presented with the signs and 16 symptoms of angle closure glaucoma. 17 A. (Witness complies.) 18 Q. And you have circled the whole eye. 19 Is there a more specific area of the 20 eye that you would want to focus in on if 21 you were concerned that a patient had angle 22 closure glaucoma? 23 A. I don't think you could diagnose that

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1 unless you looked at all of these areas 2 that I circled. 3 Q. Okay. Where are the angles of the eye? 4 Just circle those for me. 5 A. (Witness complies.) 6 Q. Okay. All right. And if you want to put 7 an A next to those circles for angle of the 8 eye, or would you like me to do that? 9 A. Doesn't matter to me. 10 Q. I just want the record to reflect which 11 circles you are referring to. I wouldn't 12 want your testimony to be inaccurate -- 13 A. (Witness complies.) 14 Q. -- or be misread by anyone. 15 (Plaintiff's Exhibit 3 was marked 16 for identification.) 17 Q. I'll hand you what I'm going to mark as 18 Plaintiff's Exhibit 3. Do you recognize 19 what that is a diagram of? 20 A. Yes. 21 Q. Okay. What is it, please? 22 A. That is a picture of the anterior chamber 23 angle, and in this particular location it's	1 mean to do that. 2 Dr. Bazemore, do you agree that that is 3 your duty? 4 A. I think that that would be a goal of all 5 practitioners. 6 Q. Okay. And that is, in fact, what the 7 profession requires of you, correct? 8 A. Say the first sentence again. 9 Q. Okay. I mean, you've testified earlier you 10 have to have a certain amount of continuing 11 education every year, correct? 12 A. Correct. 13 Q. What is the purpose of continuing education 14 for optometrists? 15 A. To try to keep you abreast of the latest 16 information available to provide eye care 17 to the people. 18 Q. Okay. And it is your duty to stay abreast 19 of such information, correct? 20 A. It's your responsibility. 21 Q. Yes. Okay. And that is in order to best 22 serve the patients that come to you? 23 A. Yes.
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1 almost totally closed. 2 Q. Okay. And assuming this depicts someone's 3 eye, what eye problem does that patient 4 have? 5 A. He has a closed angle. 6 Q. Does everyone with a closed angle have 7 angle closure glaucoma? 8 A. I would say that the risk of them having 9 that is extremely high if they have a 10 closed angle. 11 Q. Okay. All right. You can move those 12 aside. Thank you. 13 All right. Let me ask you a couple of 14 questions before we move to the next 15 thing. Do you, Dr. Bartlett, agree that it 16 is your obligation as a practicing 17 optometrist to stay current with the most 18 up-to-date information in your field in 19 order to best serve your patients? 20 MR. WHITE: Object to the form. I 21 believe you referred to him as 22 Dr. Bartlett. 23 Q. I apologize. I probably did, and I didn't	1 MR. ADAMS: I'm going to mark this 2 book as Plaintiff's Exhibit 3 4. I'm going to keep this 4 book, but I'm going to give 5 you, Matt, a copy of what I'm 6 reading from. And that's 7 the -- obviously, the title 8 page. 9 (Plaintiff's Exhibit 4 was marked 10 for identification.) 11 Q. Okay. Dr. Bazemore, I'm handing you what 12 I've marked as Plaintiff's Exhibit 4. And 13 I have opened this book -- 14 First of all, take a minute to look at 15 that, familiarize yourself briefly with the 16 book. And if you need to take a 17 three-minute, off-the-record break to do 18 that, that's fine. 19 MR. WHITE: Are you referring to 20 any specific section? I know 21 the page is opened to primary 22 angle closure glaucoma. You 23 want him to read that or --

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<p style="text-align: right;">Page 109</p> <p>1 MR. ADAMS: Well, we're going to 2 go through it in a minute. 3 I'm just asking him to -- I 4 want him to agree --</p> <p>5 Q. Well, take a look at the book, if you don't 6 mind, the front page, whatever. You 7 recognize this to be a book for optometry 8 students, correct?</p> <p>9 Okay. Let me back up. The title of 10 this book is Clinical Ocular Pharmacology, 11 Fourth Edition, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And it is written by a Dr. Jimmy D. 14 Bartlett, correct?</p> <p>15 A. There's two names on here.</p> <p>16 Q. Right. He's one of the authors, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And I believe he came up earlier in this 19 deposition, and you said you recognized him 20 as being a professor of optometry at UAB, 21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. All right. And you recognize him as</p>	<p style="text-align: right;">Page 111</p> <p>1 IOP occurs -- 2 And that IOP you agree means 3 intraocular pressure, correct?</p> <p>4 A. Yes.</p> <p>5 Q. -- with dilation of vessels at the limbus, 6 a steamy cornea, and a mid dilated pupil 7 that is nonreactive to light. Symptoms of 8 blurred vision, colored rings, halos around 9 point sources of light, ocular pain and 10 discomfort, nausea and often vomiting. 11 You agree that I read that correctly?</p> <p>12 A. Yes.</p> <p>13 Q. Do you agree?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Do you disagree that these symptoms 16 listed are symptoms of acute angle closure 17 glaucoma?</p> <p>18 A. I'm sorry. Could you say that again? You 19 kind of skipped.</p> <p>20 Q. All right. Do you agree that this list is 21 accurate, this list of symptoms of angle 22 closure glaucoma --</p> <p>23 A. Yes.</p>
<p style="text-align: right;">Page 110</p> <p>1 somebody who is an expert in the field of 2 optometry?</p> <p>3 A. I recognize him as an instructor in the 4 field of optometry.</p> <p>5 Q. Well, I mean, in fact, a professor of 6 optometry.</p> <p>7 A. Correct.</p> <p>8 Q. Okay. Do you have an opinion as to whether 9 he's a qualified -- as to whether he's well 10 qualified in his field? Do you have an 11 opinion one way or the other?</p> <p>12 MR. WHITE: Object to the form.</p> <p>13 A. To my knowledge, he's very capable at what 14 he does.</p> <p>15 Q. All right. I'd like for you to look at 16 page 865, which is open before you, 17 please. Under acute angle closure 18 glaucoma, do you agree that the first 19 sentence there -- I'm going to read it. It 20 says, glaucoma is a true ocular urgency. 21 Do you see that?</p> <p>22 A. Correct.</p> <p>23 Q. It says, a sudden significant increase in</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. -- is accurate? Okay. 2 Next paragraph, it says, the clinical 3 examination consists of history taking, 4 biomicroscopy, gonioscopy, and tonometry. 5 Okay. Do you agree that the clinical 6 examination should include those things?</p> <p>7 A. If they already have an angle closure? Is 8 that your question?</p> <p>9 Q. If they have these symptoms, do you agree 10 that the examination should include those 11 things?</p> <p>12 MR. WHITE: When you say these 13 symptoms, are you talking 14 about all of the symptoms 15 listed above?</p> <p>16 Q. Well, any of the symptoms listed above. If 17 a patient presents with some -- with one or 18 more of these symptoms, do you agree that 19 the clinical examination should consist of 20 history taking, biomicroscopy, gonioscopy, 21 and tonometry?</p> <p>22 A. Not if they don't have all of them.</p> <p>23 Q. Okay. So it's your testimony that a</p>

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1	patient would have to have all of these	1 for an exam in your office, that does not
2	symptoms for the clinical examination --	2 mean that you shouldn't rule out the
3	for it to be required that the clinical	3 possibility of angle closure glaucoma
4	examination include history taking,	4 through other testing, correct?
5	biomicroscopy, gonioscopy and tonometry?	5 A. Angle closure glaucoma is ruled out on
6	A. Correct.	6 every patient that comes in for an exam,
7	Q. Okay. Let's look at the next page, if you	7 whether they have symptoms of it or not.
8	would, page 866. I'd like you to look at	8 Q. Okay. And that is because angle closure
9	the second full sentence on that page. Do	9 glaucoma can result in blindness, correct?
10	you see where it says there, is often a	10 MR. WHITE: Object to the form.
11	history of mild attacks?	11 Asked and answered.
12	A. Second -- oh, okay. You're starting down	12 Q. Is that correct?
13	here.	13 A. I'm sorry. What? What was the question?
14	That would be what he has in the book.	14 Q. That's fine. He's right. You have already
15	Q. Okay. Do you agree that a history of mild	15 affirmatively answered that.
16	attacks can accompany someone who has acute	16 All right. Let's look at page 869.
17	angle closure glaucoma?	17 All right. You see the section there that
18	A. Often is sort of a wide-open word. My	18 says, subacute and chronic angle closure
19	experiences with the angle closures that I	19 glaucoma. You see that section?
20	have dealt with are that they are an acute	20 A. Yes.
21	problem that they come in the office with,	21 Q. It says, diagnosis. Okay. And I'm just
22	and that's not usually -- prior history is	22 going to read part of that first
23	not usually positive.	23 paragraph: A subacute angle closure attack
	Page 114	Page 116
1	Q. Okay. But do you agree it is possible that	1 requires prompt diagnosis and appropriate
2	they could come into the office without the	2 management in part to avoid a possible
3	symptoms at that moment, but give a history	3 acute attack in the future. The symptoms,
4	of mild attacks, and that that -- that that	4 although transient, are similar to those in
5	history would necessitate you testing for	5 acute angle closure glaucoma and include
6	acute angle closure glaucoma?	6 red eye, blurred vision, colored rings
7	A. I can't answer that the way you're putting	7 around lights, tearing, ocular discomfort,
8	it.	8 and headache located above the eye.
9	Q. Okay. Well, let's see --	9 Did I read that correctly?
10	A. There are more specifics to the case.	10 A. Yes.
11	Q. Let's see if I can do better. Do you agree	11 Q. Okay. And do you agree that -- do you
12	that just because someone doesn't have high	12 agree with what I just read?
13	intraocular pressure as they sit under an	13 MR. WHITE: Agree that you just
14	exam at your office, that does not	14 read it correctly?
15	necessarily mean that they do not have	15 Q. Do you agree that what I just read is
16	angle closure glaucoma?	16 accurate?
17	A. Again, that would be a case-by-case thing.	17 A. It would apply in some instances.
18	You couldn't make a blanket statement about	18 Q. Okay. Let's break it down. You agree that
19	it.	19 subacute angle closure glaucoma requires
20	Q. Is it possible?	20 prompt diagnosis, correct?
21	A. It's possible, yes.	21 A. Hopefully, it would.
22	Q. And even though somebody doesn't have high	22 Q. You agree that it requires appropriate
23	intraocular pressure at the time they sit	23 management, correct?

<p style="text-align: right;">Page 117</p> <p>1 A. Correct.</p> <p>2 Q. You agree that if it's not managed 3 appropriately, possible acute attacks could 4 occur in the future, correct?</p> <p>5 A. That's a possibility.</p> <p>6 Q. Okay. You agree that the signs and 7 symptoms of angle closure glaucoma include 8 red eye? Do you agree with that? I 9 believe you've already testified to that.</p> <p>10 A. If the angle is closed when they come in 11 the office, their vessels will be dilated.</p> <p>12 Q. Okay. And that results in red eye, 13 correct?</p> <p>14 A. Correct.</p> <p>15 Q. You agree that one of the symptoms of angle 16 closure glaucoma is blurred vision, 17 correct?</p> <p>18 A. Yes, it can -- that could be one of the 19 symptoms.</p> <p>20 Q. Okay. And you agree that colored rings 21 around lights is one of the symptoms, 22 correct?</p> <p>23 A. It can be the symptom of this.</p>	<p style="text-align: right;">Page 119</p> <p>1 taking of the patient's history is 2 necessary to examine for angle closure 3 glaucoma?</p> <p>4 A. I didn't catch the first part. You said 5 something about history.</p> <p>6 Q. All right. Do you agree that an accurate 7 and thorough taking of the patient's 8 history is necessary to examine for angle 9 closure glaucoma?</p> <p>10 A. Yes.</p> <p>11 Q. And you agree that the same is true of 12 biomicroscopy?</p> <p>13 A. That's something that should be done on 14 every patient.</p> <p>15 Q. Okay. So that's a yes?</p> <p>16 A. Uh-huh (positive response).</p> <p>17 Q. That was a yes?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And do you agree that gonioscopy is 20 necessary in order to do an appropriate 21 clinical examination for angle closure 22 glaucoma?</p> <p>23 A. It's one of the tests that can be done for</p>
<p style="text-align: right;">Page 118</p> <p>1 Q. All right. And another way of saying 2 colored rings around lights is halos, 3 correct?</p> <p>4 A. I guess you would have to ask the patient 5 what they meant by that to verify that.</p> <p>6 Q. All right. Further, you agree tearing can 7 be a symptom of angle closure glaucoma?</p> <p>8 A. Correct.</p> <p>9 Q. Ocular discomfort can be a symptom?</p> <p>10 A. Yes.</p> <p>11 Q. And headache can be a symptom?</p> <p>12 A. Some -- yes.</p> <p>13 Q. Okay.</p> <p>14 A. It can be.</p> <p>15 Q. All right. Let's move down to the third 16 paragraph. You see where it says, the 17 clinical examination for both conditions 18 consists of history, biomicroscopy, 19 gonioscopy, optic disk evaluation, 20 tonometry, and visual field testing. 21 Did I read that correctly?</p> <p>22 A. Yes.</p> <p>23 Q. Do you agree that an accurate and thorough</p>	<p style="text-align: right;">Page 120</p> <p>1 that. I mentioned earlier a couple of 2 other tests that can also be done for that.</p> <p>3 Q. Okay. But are you prepared to say that 4 Dr. Bartlett should not have included this 5 in his list of necessary examinations?</p> <p>6 A. I think that gonioscopy -- let's see how he 7 words this. I don't even -- let's see. 8 What's the year on this?</p> <p>9 Q. It's 2001.</p> <p>10 A. Seems like some of the other instruments 11 that I mentioned to you were not even 12 available at the time this book was 13 printed.</p> <p>14 Q. Okay. And do you use any of those 15 instruments to view the angle of the eye?</p> <p>16 A. I have a gonioscope. I don't have one of 17 the OHT instruments.</p> <p>18 Q. And you had a gonioscope in 2004?</p> <p>19 A. I did.</p> <p>20 Q. All right. Do you agree that optic disk 21 evaluation is necessary?</p> <p>22 A. Yes.</p> <p>23 Q. Do you agree that tonometry is necessary?</p>

	Page 121	Page 123
1	A. Yes	whether their angle is closed?
2	Q. Do you believe that he is referring to puff test tonometry or to applanation or Goldmann tonometry?	A. By looking with the slit lamp.
3		Q. But you testified earlier that a gonioscopy is --
4	MR. WHITE: Object to the form.	A. And I was going to say, and if it appears to be narrow with the slit lamp, I'm going to do gonioscopy.
5	Q. Based on your familiarity with the accepted form and best form of tonometry, what do you think is suggested there?	Q. Okay. And earlier I asked you did you believe that the writers of this text were wrong to state that a gonioscopy must be one of the tests, and I'm not sure I understood your answer. Is the gonioscopy a necessary test for someone having these symptoms?
6	MR. WHITE: Object to the form.	A. What was the pressure?
7	MR. ADAMS: He's an optometrist. He can testify.	Q. We're not talking about pressure, as I understand it. We're talking about these symptoms. If they present with these symptoms, one of these symptoms, one or more of these symptoms, is a gonioscopy required?
8	MR. WHITE: You're asking him to read into what he's saying and guess at what his true intent was? That's ridiculous.	A. It would depend on what other things I did and what symptoms would apply to any other
9	MR. ADAMS: No, it's not.	
10	MR. WHITE: It's absurd is what it is.	
11	MR. ADAMS: No. You do your homework, and you'll find out, it's not absurd.	
12	MR. WHITE: This man didn't do his homework? That's what you're	

	Page 122	Page 124
1	saying? The author of this book didn't do his homework?	problems that I had found or did not find on that patient.
2	MR. ADAMS: You may not understand the question. Let me rephrase it.	Q. Okay. So if I understand you correctly, you are -- do I understand you correctly to disagree with the writers of this text that gonioscopy must be a test performed when a patient presents with these symptoms?
3	Q. In the most current literature, where you see the word tonometry, is that in reference to puff test or to Goldmann tonometry?	MR. WHITE: Objection to the form of that. You're paraphrasing something that the book doesn't say.
4	A. I really --	A. It doesn't say that in the book.
5	MR. WHITE: Object to the form.	Q. Well, actually, what it says is the clinical examination for both conditions, referring to both types of angle closure glaucoma, consist. It consists. It will include gonioscopy.
6	A. I really couldn't say unless they specified on there.	A. That's correct.
7	Q. Okay. You agree that visual field testing is a necessary clinical exam for somebody with the symptoms of angle closure glaucoma?	Q. And you will agree with that?
8	A. I think that if somebody has angle closure glaucoma that I'm going to send them to the ophthalmology clinic, and they're going to discern which tests need to be run on that patient.	A. If they have it.
9	Q. Okay. How are you going to determine	Q. If they have these symptoms.
10		A. No, that's not what it says.
11		MR. WHITE: We're going to have to

<p style="text-align: right;">Page 125</p> <p>1 agree to disagree over what it 2 says.</p> <p>3 Q. All right. Do you agree that the use of a 4 gonioscopy better allows you to view the 5 angle of the eye?</p> <p>6 A. Well, what do you --</p> <p>7 MR. WHITE: Object to the form.</p> <p>8 A. We've covered this one before, too. I told 9 you there were three main things. One was 10 with the slit lamp, one was gonioscopy, and 11 one was the OHT instrument.</p> <p>12 Q. Of the three, which allows you to view the 13 angle of the eye the best?</p> <p>14 A. I would say the OHT instrument.</p> <p>15 Q. Okay. And then what is the second best?</p> <p>16 A. The gonioscopy.</p> <p>17 Q. You've testified earlier that glaucoma is a 18 serious medical condition that can result 19 in blindness, correct?</p> <p>20 MR. WHITE: Object to the form.</p> <p>21 Asked and answered.</p> <p>22 Q. You haven't changed your mind on that, have 23 you?</p>	<p style="text-align: right;">Page 127</p> <p>1 Q. All right. But, now, did you have -- 2 What did you call it, the OHD?</p> <p>3 A. OHT. I'm not even -- that is an instrument 4 that has only come out here in the last 5 year or two, so I don't even know if he has 6 one up there or not.</p> <p>7 Q. So you didn't have an OHT in 2004?</p> <p>8 A. No.</p> <p>9 Q. All right. But you've already testified 10 you had a gonioscopy in 2004?</p> <p>11 A. Right.</p> <p>12 Q. Okay. Do you agree with that statement, 13 not -- Let's forget about the OHT for a 14 moment. Between the other available 15 methods of viewing the angle, do you agree 16 that the gonioscopy is the better method 17 than the slit lamp?</p> <p>18 A. Right. Then the von Herrick screening 19 method. Both of them require the slit 20 lamp.</p> <p>21 Q. Okay. All right. Next paragraph. It 22 says, even when the anterior chamber angle 23 is assessed as being narrow or even</p>
<p style="text-align: right;">Page 126</p> <p>1 A. No.</p> <p>2 Q. Okay. And that is something that you need 3 as an optometrist to rule out when you see 4 a patient who has some symptoms of 5 glaucoma, correct? You need to rule out 6 glaucoma, correct?</p> <p>7 A. I need to rule out glaucoma, yes.</p> <p>8 Q. Okay. And in order to do that, you need to 9 view the angle of the eye, correct?</p> <p>10 A. Not necessarily.</p> <p>11 Q. All right. I'd like you to look at the 12 first full paragraph in the next column. 13 Do you see where it says, evaluation of the 14 anterior chamber angle is best accomplished 15 by gonioscopy? Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. Do you agree with that?</p> <p>18 A. Just a minute ago, we talked about the 19 three most commonly used ways of doing 20 that. And like I said, when the book was 21 written, they didn't have some of the 22 instruments available then that -- so this 23 book is not -- it's outdated.</p>	<p style="text-align: right;">Page 128</p> <p>1 dangerously narrow, further information is 2 often needed.</p> <p>3 Do you agree with that?</p> <p>4 A. I just have to have a minute to read what's 5 there besides that one sentence, because 6 that's not all that's involved with it.</p> <p>7 Q. Well, take your time.</p> <p>8 A. Okay. Now go ahead and ask me again, 9 please.</p> <p>10 Q. All right. When the anterior chamber is 11 assessed as being narrow or even 12 dangerously narrow, further information is 13 needed, right? Do you agree with that?</p> <p>14 Q. Further information before you do what?</p> <p>15 Q. Well, let me just ask you. If you see a 16 very narrow angle, may not be closed but 17 it's narrow, what do you do?</p> <p>18 A. I am probably going to have that go to 19 Medical Arts to see if they want to do a 20 prophylactic laser procedure on that.</p> <p>21 Q. And why is that?</p> <p>22 A. Because I'm not allowed to do that 23 procedure? Is that what you're asking?</p>

	Page 129		Page 131
1	Q. No, sir. I'm asking, what are you	1	me, whether they had surgery or not.
2	concerned about that would motivate you to	2	Q. Correct. So if somebody has subacute angle
3	send them to Medical Arts?	3	closure glaucoma, they should be referred
4	A. That their angle didn't close off and the	4	to an ophthalmologist. Do you agree with
5	pressure go up and they have nerve damage.	5	that?
6	Q. All right. Have you ever done a pressure	6	It's not in the book. I just said it.
7	gonioscopy?	7	A. I'm just trying to look at where you're
8	A. Yes.	8	taking this sentence out of again.
9	Q. All right. Is that something that was	9	Okay. Now if you'll ask me that again,
10	available to you in 2004?	10	please.
11	A. Yes.	11	Q. If a patient has subacute angle closure
12	Q. Okay. All right. I'd like you to turn to	12	glaucoma, they should be referred to an
13	page 870, please, where it says	13	ophthalmologist, correct?
14	management. You see -- I'll read it:	14	A. Yes.
15	Surgical intervention should be considered	15	Q. Okay. All right.
16	for all eyes with subacute angle closure	16	MR. ADAMS: Do you want to take a
17	glaucoma.	17	snack break?
18	Do you see that?	18	MR. WHITE: Yeah. What time is
19	A. Correct.	19	it?
20	Q. And that involves referral to an	20	(Brief lunch recess.)
21	ophthalmologist, correct?	21	Q. (Mr. Adams continuing) Dr. Bazemore, as
22	A. It also had some other stuff after that.	22	far as documentation goes, can you tell me
23	Q. Okay. Do you want to talk about the other	23	why you document the treatments given?
	Page 130		Page 132
1	stuff?	1	A. I'm sorry. You asked why do I document?
2	MR. WHITE: Well, I think his	2	Q. Yes.
3	point is you can't just take	3	A. So next time I'll know what I did the time
4	one --	4	before.
5	A. Out of context.	5	Q. Okay. And why is that important?
6	MR. WHITE: -- sentence and take	6	A. Well, number one, it will help me
7	it out of context. I mean --	7	understand, if the patient is in the office
8	MR. ADAMS: Well, I think that's a	8	with a problem, whether it's a new or an
9	pretty straightforward	9	old problem; whether there have been
10	sentence. No conditions in	10	changes since that time or not.
11	that sentence.	11	Q. And do you document everything or just some
12	MR. WHITE: Well, it's under	12	of what you do?
13	management, and it's talking	13	Let me back up. That's kind of a bad
14	about all different kinds of	14	question.
15	management. So -- I don't	15	A. You'll have to be more specific.
16	know what would -- I mean, I	16	Q. If you perform a test or an exam, are you
17	think we can agree those words	17	going to document in some way that you did
18	are written in this book.	18	that test or exam?
19	Q. All right. Do you agree that if a patient	19	A. There are certain exams that you would
20	has subacute angle closure glaucoma that	20	document by not writing anything down that
21	surgical intervention should be considered?	21	was a result of the test other than that
22	A. That patient would be referred to Medical	22	you did it, and that would be that it was
23	Arts, and it would be up to them, not to	23	normal.

<p style="text-align: right;">Page 133</p> <p>1 Q. Okay. So any test you do, there would be 2 some notation of some sort, some marking of 3 some sort that that test was, in fact, 4 performed, correct? 5 A. Yes, to the best of my knowledge. 6 Q. And is that a standard that you adhere to? 7 A. I attempt to. 8 Q. Okay. And have you ever heard of the 9 standard for medical documentation that if 10 it's not documented, it's not done? 11 MR. WHITE: Objection to form. 12 Q. Have you ever heard of that? 13 A. If so, I don't recall. 14 Q. Okay. But whether you've heard of that or 15 not, you agree that if you perform a test, 16 it is -- Well, let me back up. 17 Your testimony is if you perform a 18 test, you're going to document in some way 19 that you performed it? 20 A. And one method of documenting would be to 21 not put anything down. 22 Q. But I thought you said that you -- explain 23 that.</p>	<p style="text-align: right;">Page 135</p> <p>1 unintentionally. 2 MR. WHITE: I would state for the 3 record that these -- the 4 medical -- the first four 5 pages seem to be fairly clear, 6 but the pages after that are 7 very poor copies. 8 MR. ADAMS: I'm going to ask him 9 what they are. Those are 10 copies you provided, so... 11 MR. WHITE: If that's all the 12 copies you've got, we'll be 13 glad to make you better copies 14 from the originals. 15 MR. ADAMS: Okay. Might take you 16 up on that. We'll just see. 17 Q. All right. Well, first of all, thumb 18 through this, the first four pages, if you 19 would, please. What do you recognize this 20 to be? 21 A. The medical records from the visits, the 22 office visits on Kyle. 23 Q. And you recognize -- so you recognize</p>
<p style="text-align: right;">Page 134</p> <p>1 A. There are certain tests that are on there 2 that are done by everyone, that are done on 3 everyone, and it may just say normal. 4 Q. Okay. But nonetheless, it does say 5 something? Like I said, there's some type 6 of demarcation on the page that it was 7 done, correct? 8 A. Is there some specific question about this 9 that we're trying to get to? 10 Q. No. I'm just asking a general question, 11 and I'm permitted to do that. 12 A. Yeah. I'm just trying to understand. The 13 testing results should be on the medical 14 record. 15 Q. Okay. Thank you. 16 (Plaintiff's Exhibit 5 was marked 17 for identification.) 18 Q. I'm going to hand you what I've marked as 19 Plaintiff's Exhibit 5. 20 MR. ADAMS: These are just his 21 treatment notes. And I 22 actually put them together in 23 a reverse order</p>	<p style="text-align: right;">Page 136</p> <p>1 Plaintiff's Exhibit 5, at least with 2 respect to the first four pages, to be your 3 treatment notes, if you will, for Kyle 4 Bengtson? 5 A. They are testing notes. 6 Q. Okay. All right. That was my next 7 question, how do you refer to them. Okay. 8 The testing notes. Okay. 9 And I would like us to just go through 10 what we're looking at here, if you will. 11 Now, if you'll go to the fourth page 12 there. Like I said, I unintentionally put 13 them in the wrong order. 14 The March 24th, 2000 note, is that what 15 you're looking at? 16 A. Right. 17 Q. Okay. And you agree this is for Kyle 18 Bengtson, correct? 19 A. Yes. 20 Q. Okay. And just, if you will, take me 21 through what we're looking at here as far 22 as the top line. That's just -- you're 23 identifying Kyle Bengtson, his date of</p>

	Page 137		Page 139
1	birth, his age, the fact that he's a male, 2 and he's white; is that correct? That's on 3 the left side of the page, top left; is 4 that correct?	1	layman's terms, if you will.
5	A. Correct.	2	A. Okay. 20/60 means that in order for him to 3 be able to see that with his right eye, it 4 needs to be three times as big as it would 5 be if it was 20/20 vision in that eye.
6	Q. All right. And moving to the right at the 7 top, you're identifying the date you're 8 performing this test, correct? And then 9 his address, phone number, and that kind of 10 identifying information, right?	6	Q. Okay. And then moving on down, the next 7 one is what? OS?
11	A. Yes.	8	A. OS is the left eye.
12	Q. All right. Now, tell me what it says -- it 13 has uncorrected habitual RX or corrected as 14 best I can read it. What does that mean?	9	Q. Okay. And that was 20/50, and he missed 10 one letter; is that correct?
15	A. That would be the prescription that he 16 normally wears.	11	A. Correct.
17	Q. And on this visit, can you tell whether or 18 not he was wearing any eyeglasses?	12	Q. Okay. And you have the word none in 13 there. What does that mean?
19	A. He wasn't at that time.	14	A. He didn't have a habitual RX.
20	Q. Okay. Ordinarily would you circle 21 uncorrected for that?	15	Q. Okay. At this time, based on what you've 16 seen at the top here, just doing the visual 17 acuity test, does he need glasses at this 18 point or can you tell yet?
22	A. For?	19	A. I couldn't tell yet.
23	Q. For not wearing --	20	Q. Okay. And then where it says history -- 21 HX stands for history, correct?
		22	A. Correct.
		23	Q. All right. And last exam date, what did
			Page 140
1	A. For the fact that he doesn't wear glasses?	1	you write there?
2	Q. Right.	2	A. Never had one.
3	A. That doesn't have anything to do with that.	3	Q. Okay. And then reason for visit. Can you 4 interpret those, what you've written there?
4	Q. What does uncorrected mean?	5	A. Routine exam. Having problems seeing far 6 away.
5	A. That has to do with his distance acuity, 6 and in that case it would be without a 7 correction.	7	Q. And then below that, is that a CC?
8	Q. I see. Okay. Thank you. 9 And the VA stands for visual acuity; is 10 that right?	8	A. Correct. Chief complaint.
11	A. Correct.	9	Q. And what have you written there?
12	Q. The OD stands for right eye; is that 13 correct?	10	A. Decreased distance vision noticed last 11 several weeks. Near vision is okay.
14	A. Yes	12	Q. Okay. And then to the right of there, you 13 didn't mark anything because he's not on 14 any medications or drug allergies?
15	Q. And what do you have there? 60-1? Is that 16 what that is?	15	A. Actually, at this visit, he would have 16 filled out a sheet like this.
17	A. That's correct. 20/60, and he missed one 18 letter on that line.	17	Q. Okay.
19	Q. Okay. And what does 20/60 mean?	18	MR. WHITE: And you're pointing to 19 the fifth page in that 20 document which is marked 21 Plaintiff's Exhibit 5.
20	A. That's the line of a certain size on the 21 chart.	22	Q. Okay. And so you know the answers to those 23 questions because of the history, the
22	Q. Yeah, but what does 20/60 represent? That means he sees at -- Explain 20/60 in		

<p style="text-align: right;">Page 141</p> <p>1 written history questions he would have 2 filled out; is that right? 3 A. Correct. 4 Q. Okay. And then the next line, what does 5 that say? Looks like cover -- 6 A. Cover test. 7 Q. Okay. What is a cover test? 8 A. It's a muscle balance test to see how well 9 he uses his eyes together. The circle at 10 the top is without correction. And 11 ortho/ortho would be normal for distance 12 and for near, if he's looking far away or 13 looking up close. 14 Q. All right. So how do you do the cover 15 test? 16 A. There's a little cover paddle, what we call 17 a cover paddle that we use. You block one 18 eye and then block the other eye and then 19 do some other things to ascertain how well 20 he uses his eyes together. 21 Q. Okay. Under that, what is that? 22 A. Vergences is a test where you use some 23 prism to see -- if he does have a defect on</p>	<p style="text-align: right;">Page 143</p> <p>1 you look up close. That's six centimeters. 2 Q. And is that normal? 3 A. Yes, that would be normal. 4 Q. All right. And then pupils, what do you 5 have there? 6 A. Pupils equally reactive to light and 7 accommodation. And the other says negative 8 MG, which stands for Marcus Gunn, which is 9 a pupillary defect if you have optic nerve 10 damage. And it was normal. 11 Q. Okay. And then we have -- explain the 12 next -- actually, there's a mark over in 13 the right -- on the right side of the 14 page. What does that mean? 15 A. That has to do with something else. That's 16 plus a half, which means that with the 17 lenses that he had, he read 20/20 right 18 under there, that -- the lenses that were 19 obtained through the testing procedures. 20 And the plus a half means that if you 21 changed the lens by that much that it made 22 it blurry. 23 Q. Okay.</p>
<p style="text-align: right;">Page 142</p> <p>1 the cover test, it helps you tell how well 2 he compensates for that on his own. 3 Q. Okay. But his cover test was normal, so 4 you didn't do that, right? 5 A. That's correct. 6 Q. What's the next thing? 7 A. External. 8 Q. Okay. And what does that say? 9 A. Within normal limits both eyes. 10 Q. Okay. And what is the external? 11 A. You're looking at the outside part of his 12 eye on the lids and lashes and also at the 13 front surface of the eye. 14 Q. All right. What's the next thing down 15 there? 16 A. Versions. That has to do with how well you 17 can move your eyes in all directions. 18 Q. Okay. 19 A. And it was full, which means they can move 20 in all directions. 21 Q. And what is that next line? 22 A. Near point of convergence, which has to do 23 with how far in you can turn your eyes when</p>	<p style="text-align: right;">Page 144</p> <p>1 A. It's just to help assure the accuracy of 2 the reading that you got. 3 Q. All right. Under that, you have right eye, 4 left eye again, and looks like some visual 5 acuity numbers. Can you interpret all of 6 that? 7 A. Right here, the first part is clear in both 8 eyes. What that does is there's an 9 instrument called a retinoscope, and it 10 shoots light through your pupil, and you 11 can see the reflex in your pupil. If there 12 are any defects in the media of the eye as 13 you go through your cornea and your lens 14 and everything, then this would not be 15 clear. It would be hazy or fuzzy. So his 16 was clear in both eyes. The next part 17 where it says subjective is the reading 18 that was obtained as far as doing the tests 19 for glasses prescription. 20 Q. Okay. And then under visual acuity, what 21 is that? 22 A. 20/20 right eye and left eye. 23 Q. Okay. So with these prescriptions, he's</p>

	Page 145		Page 147
1	now at 20/20; is that right?	1	looks like MISC. What is that? What does all that stand for?
2	A. That's correct.	2	
3	Q. And then what are the other -- the next	3	A. This is -- the C-FTFC part there is
4	line down, what does that stand for? What	4	confrontation full to finger count. That's
5	is that?	5	a peripheral vision screening. And the
6	MR. WHITE: Talking about color	6	right eye and the left eye, all the
7	vision?	7	quadrants were normal.
8	A. Color vision, he missed zero with both	8	Q. Okay. And then color vision?
9	eyes.	9	A. No misses on that. That's with both eyes
10	Q. I'm sorry. I'm still up just below the	10	Q. Okay. And then under that, what is that
11	left eye thing. It's like -- my copy is	11	word?
12	bad. Looks like myopic perhaps? Right	12	A. The one to the left-hand side of the page
13	under where you've written clear. Oh, your	13	is keratometry.
14	copy is much better. Yeah. Myopic,	14	Q. Okay.
15	biopic. Is that what that says? Right	15	A. It measures the curvature on the front
16	here.	16	surface of your eye.
17	A. No, that's a testing procedure that you use	17	Q. Okay. And what are you finding there for
18	to determine their glasses prescription.	18	his right eye and his left eye?
19	Q. Okay. And you didn't have to do that test	19	A. It's within normal range.
20	in this case; is that correct?	20	Q. Okay. And what is this marking over to the
21	A. We did it, but it's incorporated into these	21	right that you have? What does that mean?
22	findings up here.	22	A. Volk 90 and IO mean -- that means that we
23	Q. I see. Okay. Across from those words,	23	looked in the back of his eye with a Volk
	Page 146		Page 148
1	what do we have there? Looks like --	1	90 lens and with an indirect
2	MR. WHITE: MA? No.	2	ophthalmoscope.
3	Q. What is that?	3	Q. And why would you do that?
4	MR. WHITE: NHA. What is that,	4	A. That's done on everybody.
5	doctor?	5	Q. And what are you testing for?
6	A. PHA. Again, it's another -- it's	6	A. You're looking anywhere from the front
7	another -- PHA stands for pinhole acuity.	7	surface of their eye all the way to the
8	You use that sometimes if their vision is	8	back, and you look and see if you see any
9	not corrected well with lenses to see if	9	problems.
10	they can see any better through a little	10	Q. Okay. All right. The SLE there. That's
11	pinhole, or whether there's some other	11	slit lamp exam?
12	problem that's limiting the vision.	12	A. Right.
13	Q. What is NHA?	13	Q. And what have you written there?
14	A. Near.	14	A. That has one to one half grade three angle
15	Q. All right. On down from there, what's the	15	in both eyes, and WNL would be within
16	next line? What does that say?	16	normal limits for the eyes and the lids.
17	A. Show me where you're talking about.	17	And then it says OU out to the side, which
18	Stereopsis. It's a depth perception	18	is both eyes.
19	test.	19	Q. Okay. And then to the right of there, what
20	Q. Okay. And was it not necessary to do that	20	is that?
21	on him --	21	A. That has to do with retinal findings. It
22	A. It wasn't done.	22	has to do with cup-disk ratio and the fovea
23	Q. Okay. And then going over to the right,	23	and the general retinal area and the

<p style="text-align: right;">Page 149</p> <p>1 arterial/venous ratio, various things 2 Q. Okay. What are you testing for there? 3 A. Any type of abnormality that you might see. 4 Q. Okay. So what does that test consist of? 5 A. You're looking inside their eyes with 6 the -- those two lenses that were on the 7 left-hand side of that entry. 8 Q. Okay. 9 A. You look -- the Volk 90, you look with the 10 slit lamp. The other one you look with a 11 hand-held instrument, the indirect 12 ophthalmoscope. 13 Q. Okay. Below that it says tonometry; is 14 that correct? 15 A. Correct. 16 Q. NCT. Is that the puff test? 17 A. That's noncontact tonometry. 18 Q. Is that what a puff test is? 19 A. Yes. 20 Q. And what does that say next to that? 21 A. At three o'clock p.m., and then the 22 readings were 17 for the right and 16 for 23 the left.</p>	<p style="text-align: right;">Page 151</p> <p>1 the 2nd, 2001 for Kyle Bengson, correct? 2 A. Correct. 3 Q. All right. And then the visual acuity is 4 apparently -- 5 Under visual acuity, are you testing 6 him corrected or uncorrected at this point? 7 A. It's on the uncorrected side there. 8 Q. I see. Where would it be -- okay. The 9 habitual RX, that means he wears glasses, 10 right? 11 A. Right. That would be the pair of glasses 12 that he got on the previous office visit. 13 Q. Okay. So he's being tested with his 14 glasses on? 15 A. No. That entry to the left-hand side of 16 that area is without them. 17 Q. I see. Okay. 18 A. If it was with them, it would be to the 19 right-hand side of that line. 20 Q. Okay. So how has his vision changed since 21 March of 2000? 22 A. It's very close. 23 Q. Is it better or worse --</p>
<p style="text-align: right;">Page 150</p> <p>1 Q. Okay. And what does that say to the right 2 up there? 3 A. A for assessment, compound myopic astigmat 4 both eyes. 5 Q. And then the plan for Kyle was what? 6 A. RX glasses for distance vision only. 7 Recheck in a year. 8 Q. Okay. And is this the right eye 9 prescription and the left eye prescription? 10 A. Right's on the top. 11 Q. Okay. And you've signed it; is that 12 correct? 13 A. Correct. 14 Q. And has anybody else signed it there? 15 A. No. 16 Q. Looks like somebody's signature and then 17 your signature perhaps. 18 A. Where is that? 19 Q. Well, I don't know. What's that? 20 A. Recheck one year. 21 Q. I see. Okay. 22 All right. Let's go to the next one. 23 You agree that the next page up is October</p>	<p style="text-align: right;">Page 152</p> <p>1 MR. WHITE: Just for the record, 2 you're saying from March of 3 2000 until October of -- 4 October 2nd, '01? 5 MR. ADAMS: Right. 6 MR. WHITE: Okay. 7 Q. You said it's very close? 8 A. Uh-huh (positive response). 9 Q. Okay. Is it better or worse? 10 A. It's about the same. 11 Q. All right. So you've got 20/60 in the 12 right eye, correct? 13 A. Correct. 14 Q. The SPH there, what does that mean? 15 A. Sphere. 16 Q. And you've got a negative .50? What does 17 that mean? 18 A. That's the strength of the lens as far as 19 the spherical part. 20 Q. All right. And the CYL, what does that 21 stand for? 22 A. That's cylinder. 23 Q. Okay.</p>

	Page 153	Page 155
1 A. That has to do with the correction for 2 astigmatism. 3 Q. Okay. And then axis, what does that mean? 4 A. That has to do with the correction for 5 astigmatism also. 6 Q. All right. And what is axis 95? What does 7 that mean? 8 A. It has to do with the orientation of the 9 difference in the power for the correction 10 for astigmatism. 11 Q. So going back to the March exam, how would 12 you describe Kyle's eye health at the time 13 he was at your office? 14 MR. WHITE: Talking about the 15 March 2000? 16 MR. ADAMS: Yes. 17 Q. In March 2000. 18 A. There were no abnormalities found. 19 Q. Okay. So he's basically got healthy eyes 20 at this point? 21 A. Uh-huh (positive response). 22 Q. With a need for a mild prescription; is 23 that fair?		A. No general health problems. He's not on any medicine. He's not allergic to any drugs that he's aware of, and there's no ocular history of him having any eye problems or any diseases or blindness in the family. Q. All right. And then where it says under last eye exam, it says -- looks like last -- what does that say? Check? Can you interpret -- A. Last checkup. That's what that means. Q. All right. And what does it say? A. 3/24/2000 was the date for the last checkup. Q. All right. Last checkup, and then it says what, new glasses? A. New glasses then. Wears as needed, PRN. Q. Okay. Chief complaint is what? A. Wants contacts. Never worn. Q. All right. Cover test is -- A. Normal. Q. -- normal again. And then the EXT, what does that say there?
1 A. His distance vision was a little bit off. 2 Q. Okay. All right. And then you've 3 indicated that in October of 2001 that it's 4 about the same, correct? 5 MR. WHITE: Talking about his 6 vision? You say it. 7 MR. ADAMS: Well, I'm -- 8 Q. Yeah. I'm talking about his vision 9 generally. 10 A. His glasses prescription? 11 Q. Yes. Just -- 12 A. It's very similar. 13 Q. Okay. The reason he says -- what does that say there? Reason -- I'm not quite sure... 15 A. Reason, wants contact lenses. That's why 16 he was there. And then it says, never worn 17 right above that. 18 Q. And what do you take that to mean, the 19 never worn? 20 A. He's never worn contact lenses. 21 Q. All right. And then on history, just 22 interpret everything you've written there, 23 please.	Page 154	A. That was the external part of your eye. Q. Okay. And how -- A. Normal. Q. Okay. And then versions, what does that say? A. Full in all fields of gaze. Q. NPC? A. Near point of convergence, it was six centimeters. Q. Same as before? A. I think the last time it was six or seven. Yeah, six. Q. Pupils? A. Were normal. Q. And then under that is ACC? Is that what that is? A. Accommodation was not attempted. It has to do with his ability to shift his focus to up close, but he wasn't having any problems with that. Q. Okay. And then describe what this means, the right eye and the left eye, where you have the negative 25. Explain all that.

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<p>Page 157</p> <p>1 What is all that?</p> <p>2 A. He's nearsighted, and he has a small amount 3 of astigmatism. It's about one point 4 different than it was the time before.</p> <p>5 Q. Okay.</p> <p>6 A. Or in the case of the left eye, it's only a 7 half a point different.</p> <p>8 Q. And what kind of visual loss is that, one 9 point, a half a point?</p> <p>10 A. Extremely small. Smallest thing that we 11 can measure.</p> <p>12 Q. Okay. So he still has pretty good eye 13 health, correct?</p> <p>14 A. Correct.</p> <p>15 Q. In fact, probably you would say good eye 16 health?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Now, above VA, it looks like TSO or 19 something? What is that?</p> <p>20 A. That's plus a half.</p> <p>21 Q. Okay. Looks like plus point 50?</p> <p>22 A. That was a test to make sure that the lens 23 that you had arrived at on the prescription</p>	<p>Page 158</p> <p>1 eye.</p> <p>2 Q. And what is that like at this point?</p> <p>3 A. It's normal.</p> <p>4 Q. All right. The slit lamp exam, what is 5 that? I know what it is, but what do you 6 have marked there?</p> <p>7 A. <u>Anterior chamber</u> angle was one to one and a 8 half, which is about a grade three, and 9 everything else was fine.</p> <p>10 Q. All right. A grade three, what do you mean 11 by that?</p> <p>12 A. That deals with how open your anterior 13 chamber angle is.</p> <p>14 Q. Is that regarded as being -- what -- in 15 terms of -- how narrow is that?</p> <p>16 A. Four is the most open, and one -- well, 17 zero would be closed.</p> <p>18 Q. Okay. So is this angle more narrow than it 19 was in his previous visit?</p> <p>20 A. It's about the same.</p> <p>21 Q. Okay. So four is the most open, zero is 22 closed?</p> <p>23 A. That's correct.</p>
<p>Page 158</p> <p>1 was accurate.</p> <p>2 Q. And then these monocular, binocular, did 3 you do any tests related to that?</p> <p>4 A. No.</p> <p>5 Q. All right. And then below that, the 6 stereopsis. How do you say that?</p> <p>7 A. That's correct.</p> <p>8 Q. Did you do that?</p> <p>9 A. No.</p> <p>10 Q. Okay. Color vision, he had no misses; is 11 that correct?</p> <p>12 A. Correct.</p> <p>13 Q. And then what is this <u>confrontation</u> thing 14 over there? What was that?</p> <p>15 A. That was the <u>visual field</u> screening, and it 16 was all normal.</p> <p>17 Q. Okay. What does that say? Right eye what?</p> <p>18 A. Right eye full to finger count. Left eye 19 full to finger count in all quadrants.</p> <p>20 Q. Okay. And then the --</p> <p>21 A. Keratometry.</p> <p>22 Q. Yeah. What is that?</p> <p>23 A. That measures the front surface of your</p>	<p>Page 160</p> <p>1 Q. So just what is the norm?</p> <p>2 A. The vast majority of the people are going 3 to be in the three to four range.</p> <p>4 Q. Okay. So his angle on both visits was 5 narrower than what is typical?</p> <p>6 A. No.</p> <p>7 MR. WHITE: Object to the form.</p> <p>8 Q. Well, you said earlier zero was closed, 9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. Four is the most open?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. So he is closer to having a closed 14 angle than he is to having an open angle?</p> <p>15 A. Three is closer to four than to zero.</p> <p>16 Q. But he's a one and a half, isn't he?</p> <p>17 A. No. It's a grade three. Right by there --</p> <p>18 Q. I'm sorry. Okay. I misunderstood. The 19 one and a half was throwing me off. Okay. 20 So he's a grade three?</p> <p>21 A. Uh-huh (positive response).</p> <p>22 Q. All right. And what do you have written 23 under there?</p>

	Page 161	Page 163
1	A. Where are we?	to be sure they're not causing a problem.
2	Q. Still at the slit lamp exam.	Q. Okay.
3	A. Within normal limits for eyes and lids,	A. And that they're performing properly.
4	both eyes.	Q. Okay. Now, is this something that you would refer back to on a subsequent visit?
5	Q. Okay. And then OPH. What does that say?	A. Refer back, like the next time he comes, am I going to look back at this?
6	A. E3 .35 spontaneous venous pulsation present in both eyes, AV 3 to 5 and fovea and general retinal area clear in both eyes.	Q. Right.
7	Q. Okay. Interpret that for me. What does that mean?	A. Yes.
8	A. That means that when we looked inside his eye, everything looked normal.	Q. All right. Let's look at the September 27th, 2003 visit.
9	Q. Okay. On tonometry, it says, NCT at 3:50 p.m.	A. Okay.
10	A. Right.	Q. And his visual acuity, is it better or worse?
11	Q. And then you have -- what is the reading there?	A. It's very close to the same thing.
12	A. The first reading on the noncontact tonometer was 28 and 24. And that was high, so I was concerned about it. And I had a note on here when we went back and did that that he was squeezing his lids	Q. All right. And just interpret those markings for us, please. Just --
13		MR. WHITE: Talking about under VA?
14		MR. ADAMS: Yes
15		Q. Tell us what you've written there.
16		A. Twenty -- this, again, could be uncorrected. Distance vision 20/50 in the
17		
18		
19		
20		
21		
22		
23		
	Page 162	Page 164
1	shut, which sometimes happens with that because they anticipate the puff of air coming. And if they're squeezing their other eye shut, the muscles squeeze on your eye and it elevates the pressure. So we went back and did it with a Goldmann tonometer there, and it was much lower.	right, 20/40 in the left.
2	Q. All right. But that is still higher than it was?	Q. And then what do you have there to the right?
3	A. Little bit. It goes up and down during the day. If I took it at eight and at four, it wouldn't be the same thing.	A. That's the lenses that he was wearing from the previous exam. That's the prescription.
4	Q. What do you have written under there?	Q. What does that say?
5	A. Myopia. Wants contact lenses.	A. UltraFlex daily wear, eight, six, 14, O minus one, minus 75.
6	Q. Okay. And then the plan is what?	Q. And his last eye exam, what does that say?
7	A. New contact lens fit with the brand and parameters of the contacts. Wear daily wear, eight, 12, 16 hours. OptiFree is the care kit that we gave him a sample to use to take care of the lenses. Recheck in one week.	A. Eyes checked 10/01.
8	Q. Okay. Why are you rechecking in one week?	Q. What does it say after that, please?
9	A. We recheck all of the new contact lens fits	A. New contact lenses then. Wears part time. Chief complaint, checkup and update contact lenses.
10		Q. All right. And then general health, what is that?
11		A. WNL, within normal limits.
12		Q. Medications?
13		A. None.
14		Q. Drug allergies?
15		A. No drug allergies.
16		Q. Ocular history?
17		
18		
19		
20		
21		
22		
23		

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1 A. Negative personal and familial.		1 (Brief recess.)	
2 Q. And the cover test, what is that?		2 Q. (Mr. Adams continuing) So the keratometry,	
3 A. Normal. Zero zero.		3 you did not perform that test; is that	
4 Q. Okay. And then external, what does that		4 correct?	
5 say?		5 A. Not that visit.	
6 A. Within normal limits, both eyes.		6 Q. Okay. And why not?	
7 Q. Versions?		7 A. It doesn't typically change a whole lot	
8 A. Full. That's normal.		8 every time you do it. If you want to look	
9 Q. All right. NPC?		9 back at the other two there, there was a	
10 A. Six centimeters.		10 very small change, and we use those for a	
11 Q. All right. Pupils?		11 baseline.	
12 A. Equally reactive to light and		12 Q. Okay. But as far as this visit, you didn't	
13 accommodation, negative Marcus Gunn.		13 do it, right?	
14 Q. Okay. And then the right eye and the left		14 A. That's correct.	
15 eye on whatever -- the rest of what this		15 Q. Okay.	
16 is, what is that?		16 A. Actually, it was done, and it was stapled	
17 A. In the middle of the page?		17 onto here with the reading out of the	
18 Q. Yes.		18 autorefractor, but I don't know where it	
19 A. That's the determination of their		19 is. It would have been stapled onto there,	
20 prescription for optical correction.		20 onto the original.	
21 Q. Okay. We have this little marking --		21 Q. All right. Miscellaneous. What is that?	
22 Okay. That's, again, plus one half?		22 Confrontation?	
23 A. Plus .5. Plus 50.		23 A. Oh, uh-huh (positive response). Yeah.	
	Page 166		Page 168
1 Q. What does that mean, again?		1 Same thing. Full to finger count in the	
2 A. That means that when we got through with		2 right eye and the left eye in all different	
3 the subjective and we held the plus 50 up		3 quadrants.	
4 there, it made it blurry, so we knew		4 Q. And then the slit lamp exam. Explain	
5 they're not too strong.		5 that.	
6 Q. Okay. And then monocular and binocular.		6 A. Again, it just has to do with the screening	
7 What was that?		7 for how open it is. Then it says, normal	
8 A. That just has to do with some testing		8 for the eyes and the lids in both eyes.	
9 procedures and whether you did one or the		9 Q. All right. Well, what is the openness of	
10 other.		10 the angle rate?	
11 Q. Okay. And then stereopsis. What was that?		11 A. This time it was even a little larger than	
12 A. Depth perception test.		12 last time.	
13 Q. Okay. And how did that go?		13 MR. WHITE: Read to him what it	
14 A. It wasn't performed.		14 is.	
15 Q. Okay. Why was that not performed?		15 A. One to three quarters, grade four.	
16 A. It's not performed on the standard		16 Q. Okay.	
17 patient. Sometimes if they're trying to		17 A. Angle, both eyes.	
18 get in pilot programs or some other		18 Q. And one to three quarters, what is that?	
19 specialty, some of the military cases that		19 A. That has to do with the way that things are	
20 we have to have that done for flying		20 measured with the von Herrick method of	
21 helicopters and stuff.		21 examining that with the slit lamp.	
22 Q. Okay. And then keratometry. What was		22 Q. Okay.	
23 that?		23 A. And...	

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1 Q. All right. And then the OPH, what are 2 you -- 3 A. Ophthalmoscopy. 4 Q. What do you have written there? 5 A. Point 35 C/D ratio for both eyes, 6 spontaneous venous pulse, arterio/venous 7 ratio three to five on the retina, fovea 8 and general retinal area clear in both 9 eyes. 10 Q. Okay. And then under that, it looks like 11 it says -- 12 A. Replacement daily wear soft contact lenses 13 and a prescription for glasses underneath 14 there. 15 Q. And then the tonometry is what? 16 A. Twelve and 14 at 8:50 in the morning. 17 Q. And then the IMP, is that impression? 18 A. Correct. 19 Q. And what does that say there? 20 A. Myop in both eyes with astigmatism with 21 change in the right eye. 22 Q. And what is the plan? 23 A. That's what we were talking about where --	1 think you said that there might have been 2 something related to the keratometry that 3 wasn't on here. Are you aware of any other 4 papers or items missing from -- 5 A. I mentioned the one I think that's in the 6 original records that -- he did that the 7 first time he was here. 8 MR. WHITE: You're pointing to the 9 fifth document in this 10 Plaintiff's Exhibit 5. And I 11 think this is actually -- it's 12 a very faded copy of that. 13 You can faintly see his 14 signature on this. 15 Q. But other than that, other than maybe a 16 written history that is either not there or 17 unclear, you're not aware of any other 18 documents that would be -- have been in his 19 optometry record in your office that are 20 not part of that exhibit? 21 MR. WHITE: Object to the form. 22 Let me just say the 23 written history is here, and
Page 170	Page 172
1 replace the contact lenses and put a new 2 glasses prescription on there and then 3 recheck in one year. 4 Q. Okay. And then the \$47, what does that 5 mean? 6 A. That was the charge for the office visit 7 that date. 8 Q. Okay. And you don't have any contention 9 that at any time he failed to pay you, 10 correct? I mean, he always paid you as far 11 as you know? 12 A. As far as I know. 13 Q. As far as you know. Okay. 14 In September of 2003, would you have 15 had a gonioscopy in the office at that 16 time? 17 A. Yes. 18 Q. And would you have had the capability of 19 using a Goldmann -- using Goldmann 20 tonometry at that time? 21 A. Yes. 22 Q. Okay. And by the way, is there anything else that is missing from the record? I	1 it is clear. Now, you have a 2 bad copy of it here, but we'll 3 be glad -- I said before we 4 would be glad to make you 5 another copy. I didn't 6 realize that -- if you have a 7 bad copy, we'll get you a 8 better copy. But the original 9 is very clear. 10 MR. ADAMS: That would be good. 11 MR. WHITE: In fact, I showed the 12 original to your client at his 13 deposition. 14 MR. ADAMS: Okay. I'm not sure 15 I've got that with me, so I -- 16 I'm not sure you provided it, 17 so I'd like that. That would 18 be good. 19 MR. WHITE: Okay. We provided it, 20 because you got a copy of it. 21 You just, apparently, got a 22 poor copy of it. 23 MR. ADAMS: Okay. What I meant is

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1 at the deposition, I don't 2 think I left the deposition 3 with a copy of that exhibit. 4 MR. WHITE: That's fine. 5 MR. ADAMS: All right. Let's just 6 press on, and then we'll talk 7 about it. 8 MR. WHITE: We'll get it at the 9 next break. I'll be glad to 10 make you a clearer copy. 11 MR. ADAMS: All right. 12 Q. Let's go to the August 20th, 2004 office 13 visit, please. 14 Under visual acuity, right eye, it 15 looks like his vision has gotten worse; is 16 that accurate? Am I reading that right? 17 A. Yes. 18 Q. It is accurate? Okay. It's now 20/100? 19 A. It has changed I thought was the question. 20 Q. I asked had it gotten worse. 21 A. Right. 22 Q. It has? 23 A. Yes.	1 Q. And could episodes of angle closure 2 contribute to a loss of vision? 3 A. That would be very uncommon. 4 Q. Okay. I mean, but you testified several 5 times that a closed angle, angle closure 6 glaucoma can cause nerve damage, correct? 7 A. Correct. 8 Q. Okay. All right. So that can lead to a 9 loss of vision? 10 A. Can nerve damage lead to a loss of vision? 11 Is that what you're asking? 12 Q. Yes. 13 A. Yes. 14 Q. Okay. His last eye exam was -- you have 15 September 27th, 2003, right? Is that what 16 you've written there? 17 A. Uh-huh (positive response). Yes. 18 Q. And under chief complaint, what have you 19 written, please? 20 A. We're going underneath there now? 21 Q. Yes. 22 A. Trouble with right eye. Has film over it 23 and is worse at night. Sees halos around
1 Q. All right. Interpret those numbers for me, 2 please. Just tell me what all that means 3 under visual acuity. 4 A. Okay. Again, uncorrected distance visual 5 acuity is on the left-hand side of the 6 sheet. The right eye was 20/100 and the 7 left eye was 20/40. Then it has the 8 correction for his last glasses 9 prescription there, and then it has the 10 last contact lens prescription next to it. 11 Q. Okay. Is there anything that you're 12 concerned about when you see his right eye 13 has gone from 20/50 to 20/100? 14 A. Well, it's obviously changed some, and we 15 just have to find out what's caused it to 16 do that. 17 Q. What could be the reasons for that? 18 A. Far and away the most common would be a 19 change in his glasses prescription. He 20 could have also had a cataract. He could 21 have also had a corneal injury that left a 22 scar. He could have a retinal problem. 23 You know, a lot of things.	1 lights. And it's been that way for 2 approximately two months with minor 3 worsening. 4 Q. Okay. And then reason over here where it 5 says -- 6 A. Problem with right eye. And then something 7 got blocked off on the edge. Feels like 8 something -- feels -- has film over it. 9 Q. Okay. Is my copy any better? 10 A. There's a word right here. I can't tell 11 what it is. 12 Q. Okay. Do you have any idea? 13 A. I would say that it's probably -- it looks 14 like an H, and it has film, which was the 15 word that he used that I put in parentheses 16 on the other side. 17 Q. Okay. What is above the problem with right 18 eye, where it says reason? What does that 19 say? 20 A. Routine exam. 21 Q. All right. Now, why did you put routine 22 exam? 23 A. Because it wasn't for anything other than a

	Page 177		Page 179
1	normal comprehensive eye exam.	1	A. Seven centimeters.
2	Q. Okay. But --	2	Q. Okay. Now, the fact that it's going up, is
3	A. It wasn't for a foreign body or for a red	3	that good or bad?
4	eye or for any other number of things that	4	A. If we did it ten times, we might get six
5	it could be for.	5	four and seven five and eight one. I mean,
6	Q. How often would you say you have patients	6	that's one millimeter. It's like this
7	who present with seeing halos and --	7	much, you know.
8	A. It's fairly common.	8	Q. Okay. Pupils?
9	Q. Is it? How often would you say?	9	A. Normal. Equally reactive to light and
10	A. You mean like give you a percentage of the	10	accommodation.
11	patients who complain about that? I hear	11	Q. Okay.
12	it every day, if that's what you're asking.	12	A. Negative Marcus Gunn sign, which would --
13	Q. Do you?	13	if that was positive, it would indicate
14	A. Uh-huh (positive response).	14	nerve damage, but it was negative.
15	Q. But do you always write it? Do you always	15	Q. And what instrument are you using to --
16	make a note of it?	16	A. Use a pen light to check pupils, or you can
17	A. I would say something about that they would	17	use a transilluminator out of the hand
18	have halos or fuzziness around the lights.	18	equipment.
19	Q. Okay. What about the film?	19	Q. Which is better?
20	A. That's just another way of expressing that	20	A. They both do the same thing.
21	it's not clear.	21	Q. Okay. Right eye. Below that, you say it's
22	Q. Blurry?	22	clear?
23	A. (Witness nods head up and down.)	23	A. Clear reflex on the retinoscopy, which
	Page 178		Page 180
1	Q. You would -- film over it, blurred vision,	1	shown light through to the back of your
2	that would probably fall in the same	2	eye.
3	category?	3	Q. All right. And what is this? What are
4	A. It would all be symptoms of something	4	these numbers in the middle here?
5	that's making it not clear	5	A. That's the prescription for the glasses
6	Q. Medications. What does it say there? No?	6	that he sees the best with. The left eye
7	A. No, and then no known drug allergies. And	7	is exactly the same as last time, and the
8	then by the ocular history, negative	8	right eye has changed some. And the
9	personal and familial history.	9	correction for astigmatism has gone up in
10	Q. General health is good, correct?	10	that eye.
11	A. Correct.	11	Q. Okay. And how is the right eye changed?
12	Q. All right. The cover test. What is that?	12	A. That was the right eye. The correction for
13	A. That's the muscle balance test. It's	13	astigmatism went up.
14	normal, zero and zero.	14	Q. Okay. Because the visual -- the
15	Q. And then vergences?	15	distance -- he's more nearsighted now in
16	A. That has to do with the testing to see how	16	his right eye, correct?
17	well they handle the defect if they have a	17	A. No -- well, one step. The major loss of
18	defect on the cover test.	18	vision there was the correction for
19	Q. Okay. External. What does that say?	19	astigmatism change.
20	A. Within normal limits for both eyes.	20	Q. Okay. And then visual acuity under that,
21	Q. Okay. And then versions?	21	what is that?
22	A. Full.	22	A. To the side you mean?
23	Q. NPC?	23	Q. Yes, to the side.

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1 A.	A. So the right eye was seeing 20/25 plus two, 2 and the left eye saw 20/20 minus one, which 3 means that with the right eye, he got two 4 right on the 20/20 line, and on the left 5 eye he missed one on the 20/20 line. 6 Q. So how has his vision changed? 7 A. The correction for astigmatism has gone up 8 a good bit in the right eye. 9 Q. Okay. And how would you describe his 10 overall visual health at this point? 11 A. Health as in pathology or -- 12 Q. I'll tell you what. Let's just strike 13 that. We'll come back to it. 14 All right. Monocular and binocular. 15 A. That has to do with the type of 16 cross-cylinder you use on the phoropter. 17 Q. PRA and NRA. What's that? 18 A. Same thing. 19 Q. Okay. And why didn't you do that, again? 20 A. Positive relative accommodation has to do 21 with the type of -- when you go through and 22 you adjust the lenses on the refractor, 23 and -- all of these things, the monocular	1 Q. All right. Well, why isn't it documented? 2 A. Well, because you can't choose. You do it 3 if you use that instrument. 4 Q. Okay. 5 A. There was not -- it's done every time they 6 come in and they are refracted through the 7 phoropter. 8 Q. I don't understand why it's not written 9 down. 10 A. Because anybody that understood how the 11 subjective was done would know that that 12 was used as part of the instrument to check 13 that. So any other doctor that was looking 14 would already know that if this test was 15 done, it was done with that. 16 Q. Okay. Stereopsis. Was that done? 17 A. No. 18 Q. Okay. And, again, what is that test? 19 A. Depth perception? 20 Q. Color vision. What do you have written 21 there? 22 A. He didn't miss any of those. 23 Q. And then to the right of that, what does it
1	Page 182	Page 184
2	cross cylinder and the PRA and the NRA have 3 to do mainly with things that are done on 4 people whose vision does not correct well. 5 Q. Okay. And was there any reason to do any 6 of those? 7 A. I did not feel it was indicated. 8 Q. All right. Why not? 9 A. There was no reason to do it. The 10 monocular cross cylinder is done on 11 everybody that has a glasses prescription. 12 Q. But he did have a glasses prescription. 13 A. Yeah, that's what I'm saying. All that -- 14 the fact that this -- this is not 15 something, you know -- this is something 16 that's built into the instrument. Now, if 17 you do a refraction with trial lenses, then 18 you have to take a cross cylinder out of 19 the drawer and hold it up and flip it and 20 stuff. But every time you do a subjective 21 refraction through a phoropter, it has a 22 monocular cross cylinder. 23 Q. All right. So why didn't you do it? 23 A. It's automatically done.	1 say? 2 A. Confrontation test where they do finger 3 count and check the peripheral vision, and 4 it was normal in both eyes. 5 Q. All right. And then keratometry. What do 6 you have there? 7 A. Well, it just has the readings and the 8 curvature on the front of the eye there, 9 and that's the results of the test right 10 there. 11 Q. Okay. And has that changed? 12 A. I expect so, because the correction for 13 astigmatism changed. Let's see. I'm 14 looking at 3/24/2000. If you want to look 15 back there, the right eye, there's a 16 difference between the left-hand number and 17 the right-hand number. It was .37 then, 18 and now it's 1.5. On the right eye it was 19 .5, and now it's zero. The major 20 difference is in the right eye where 21 there's an increase in the curvature in one 22 meridian versus the other, which is why the 23 correction for astigmatism changed.

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1 Q. All right. And what do you have written to 2 the right of there? What is that? 3 A. The M one percent OD and OS? 4 Q. What is that? 5 A. That's just the drop I put in to dilate his 6 pupils. 7 Q. Okay. And then the slit lamp exam. What 8 were the findings there? 9 A. It's one to three quarters, which is a 10 grade four angle. Normal eyes and lids in 11 both eyes. 12 Q. And then OPH. What is that? 13 A. Ophthalmoscopy, and it was normal also. 14 Q. Okay. And what does the ophthalmoscopy 15 measure? 16 A. That looks into the back surface of your 17 eye on the retina, or that's the major 18 thing you're doing with it. 19 Q. Well, tell me what those markings are. I 20 can't read your writing, so if you can 21 just -- 22 A. Oh. E3, which has to do with the category 23 of the cupping in the optic nerve, the	1 Q. Yes. 2 A. That's OU for both eyes. 3 Q. All right. Okay. So the NCT, what is 4 that? I know what -- 5 A. The reading? 13 and 12. 6 Q. At 10:20 in the morning? 7 A. Correct. 8 Q. And then what is your impression there? 9 A. Underneath? Is that what you're -- 10 Q. Yes. 11 A. Compound myopic astigmat with change in the 12 right eye. And that's -- it looks like 13 it's change in the best corrected visual 14 acuity in the right eye. 15 Q. And then your plan, what is that? 16 A. Change the right lens to the subjective 17 reading up above after a positive demo of 18 the change, which means that the patient 19 was shown the new lens there in the chair 20 in the office and thought that everything 21 looked real good with that and wanted to 22 change to that. 23 Q. Okay. And then under there it says right
Page 186	Page 188
1 cup-to-disk ratio. And then it says SVP 2 plus, which is spontaneous venous 3 pulsation. 4 Q. Spontaneous what? 5 A. Venous pulsation. If you do not have a 6 spontaneous venous pulsation, you have some 7 circulatory problems. 8 Q. Okay. What was his spontaneous? 9 A. It was fine. It was SVP plus in both eyes. 10 Q. It looks like a 138 there. What is that? 11 MR. WHITE: Where are you looking 12 at? 13 Q. In front of DS. 14 MR. WHITE: Point three five? 15 A. Point three five. I'm sorry. I didn't 16 know what you were talking about. 17 Q. And then under that, what do you have 18 written? 19 A. Fovea and general retinal area normal in 20 both eyes. 21 Q. And then to the side of that, what is that? 22 A. Slit lamp -- oh, you're talking about over 23 to the right-hand side?	1 eye -- what, now? 2 A. That's the prescription for the glasses. 3 Q. And then you have recheck in one year? 4 A. Correct. 5 Q. Okay. You did not do Goldmann's tonometry, 6 correct? 7 A. Not that visit, no. 8 Q. And you didn't do gonioscopy, correct? 9 A. No. 10 Q. All right. Do you agree that blurry vision 11 is a symptom of angle closure glaucoma? 12 A. It is a symptom of angle closure glaucoma, 13 but angle closure glaucoma is far and away 14 not the most common source of blurry 15 vision. 16 Q. Okay. And what would be more common? 17 A. A change in the refractive error, 18 cataracts, corneal scars, a lot of other 19 things. 20 Q. Tell me some more other things. 21 A. Retinal problems, central serous 22 retinopathy, retinal detachments. You 23 could have optic neuritis, which is

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<p>1 something that – another incident that 2 causes damage to the optic nerve. You 3 could have hyphema, which is the leakage of 4 a blood vessel in the back of your eye that 5 can be secondary to diabetes or a host of 6 other general health problems.</p> <p>7 You want me to keep going?</p> <p>8 Q. Yeah.</p> <p>9 A. Okay. You could have what's known as 10 iritis, which is an inflammatory problem. 11 You know, I'd have to have something to 12 write with and write all these down so I'm 13 not repeating myself on all of them.</p> <p>14 Q. You testified earlier you agree that seeing 15 halos around lights is a symptom of angle 16 closure glaucoma, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. The two of those coupled together –</p> <p>19 A. I'm sorry. Which two are we talking about?</p> <p>20 Q. The blurry vision or film over the eye 21 together with the halos around lights. 22 Would you agree that that should cause some 23 concern for an optometrist that Kyle may</p>	<p>1 was that the gonioscopy presents a better 2 view of the angle; is that correct?</p> <p>3 A. Right. That's correct.</p> <p>4 Q. Okay. Why did you not use the gonioscopy 5 to get the best possible view of the angle?</p> <p>6 A. Because there was no indication to do 7 that. All the other findings to rule out 8 glaucoma were okay.</p> <p>9 Q. What other findings?</p> <p>10 A. I just went through them. It had to do 11 with the pressure in his eye. It had to do 12 with the appearance of his optic nerve. It 13 has to do with the clarity of his cornea. 14 Has to do with -- we've already screened to 15 see if his angle was open with the slit 16 lamp exam, and all of those findings were 17 normal.</p> <p>18 Q. Are you aware as to whether the NCT 19 tonometry was the preferred tonometry test 20 at the time of this visit?</p> <p>21 MR. WHITE: Object to the form.</p> <p>22 A. Could you rephrase that another way for me?</p> <p>23 Q. Well, let's kind of back up. On one of his</p>
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<p>1 have -- or that this patient, a patient 2 presenting with this could have angle 3 closure glaucoma?</p> <p>4 A. That would be a possibility, and it would 5 be a very low chance.</p> <p>6 Q. But because it's a possibility and because 7 glaucoma is so dangerous and can result in 8 blindness, it is something you would want 9 to eliminate?</p> <p>10 A. Right.</p> <p>11 Q. Okay. And therefore, you would want to 12 conduct a thorough examination of the 13 patient's angles, correct?</p> <p>14 A. That is -- that does not define him as 15 having glaucoma or not. That only defines 16 the appearance of the angle. There were 17 tests done: Measuring the pressure in his 18 eye, looking at the optic nerve, checking 19 the pupillary actions, doing a screening 20 for angle closure with the slit lamp. All 21 of those were testing to see if he showed 22 any other signs or symptoms of glaucoma.</p> <p>23 Q. Okay. But I believe your testimony earlier</p>	<p>1 prior visits, the October 2001 visit, you 2 had had a problem with the NCT tonometry, 3 correct?</p> <p>4 MR. WHITE: Object to the form. I 5 don't believe that's what he 6 testified to.</p> <p>7 Q. Well, you had had to do another type of 8 tonometry, correct?</p> <p>9 A. I didn't have to. I wanted to.</p> <p>10 Q. And you testified you wanted to because you 11 believed Kyle was squinting his eyes or 12 squeezing his lids together?</p> <p>13 A. That's what was written on the chart, yes.</p> <p>14 Q. And is that sometimes a problem with the 15 NCT tonometry?</p> <p>16 A. Yes.</p> <p>17 Q. And the NCT tonometry is a less accurate 18 test because patients often do that, 19 correct?</p> <p>20 A. They don't often do it.</p> <p>21 Q. Well, they sometimes do it, right?</p> <p>22 A. Uh-huh (positive response).</p> <p>23 Q. Yes?</p>

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1	A. Yes.	1	cause you in a normal circumstance to
2	Q. Okay. And this October 2nd, 2001 testing	2	review the patient's entire history?
3	note or whatever you called it, it was	3	A. I would say that the chances of me looking
4	available to you in Kyle's chart on August	4	at all of the exams that he had been in
5	the 20th, 2004 when Kyle came in, correct?	5	before, with there only being three others,
6	A. I'm sorry. Say that again?	6	that I probably looked at all of them.
7	Q. Yes. The October the 2nd, 2001 testing	7	Q. Okay.
8	note, it was part of Kyle's chart when he	8	A. If it had been 15 years and there was one
9	came in in August of 2004?	9	from that far back, I doubt I would have
10	A. Correct.	10	looked at it.
11	Q. Okay. And do you review the full chart	11	Q. Okay. Well, knowing that he had at least
12	when the patient comes in or just the	12	two of the signs and symptoms of glaucoma,
13	previous visit?	13	and knowing that he had problems with the
14	A. That would vary from patient to patient,	14	puff test tonometry on a prior visit, why
15	depending on what problems they had and how	15	did you not do a Goldmann's tonometry test
16	many times they had been in to the office.	16	to measure his intraocular pressure in his
17	Q. Okay. Well, in this circumstance, do you	17	right eye?
18	know if you looked back?	18	MR. WHITE: Object to the form.
19	A. Since he had only been --	19	A. There was no indication to do that because
20	Do I remember if I looked back or not?	20	the pressure was normal, and it had been
21	Q. Right.	21	consistent over the four visits.
22	A. No, I don't recall.	22	Q. But in at least one of his four visits, the
23	Q. All right. Well, let's just say, since you	23	puff test reading had been in error,
	Page 194		Page 196
1	don't recall, I mean, a patient presenting	1	correct?
2	with a significant loss of visual acuity in	2	A. Correct, and it was verified by doing it
3	his right eye.	3	another way.
4	Do you agree that he had had a	4	Q. Okay. So if he had problems with the puff
5	significant loss of visual acuity in his	5	test previously, why did you continue to
6	right eye?	6	use it?
7	A. In his uncorrected visual acuity.	7	A. On the LED display on the instrument
8	Q. Yes. Since the prior visit, he had gone	8	itself, it has an asterisk that comes up if
9	from 20/50 in the right eye to 20/100.	9	the reading is questionable. And if it
10	A. Correct.	10	doesn't come up, then I take it as
11	Q. Would you call that a significant loss of	11	correct. But if it's off like that, I just
12	visual acuity?	12	go ahead and check it again with the
13	A. I would call it a significant loss of	13	Goldmann.
14	uncorrected visual acuity. His corrected	14	Q. Okay. You acknowledged and agreed earlier
15	visual acuity was very close to the same.	15	that angle closure glaucoma is a medical
16	Q. Okay. And then he was present -- his	16	emergency, didn't you?
17	history and his chief complaint was blurry	17	MR. WHITE: Object to the form.
18	vision or film over his eyes -- or his eye,	18	Asked and answered.
19	his right eye, halos around lights, and	19	Q. Your opinion hasn't changed on that, right?
20	that it had been getting worse over the	20	A. Unh-unh (negative response).
21	past two months, correct?	21	Q. That's a no?
22	A. Correct.	22	A. No.
23	Q. Okay. Would those things taken together	23	Q. Okay. And in that circumstance, when

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1 presented with a potential emergency, do 2 you find it more necessary to rely on your 3 expertise and training as an optometrist or 4 on the functioning of your equipment? 5 MR. WHITE: Object to the form. 6 A. I think you would have to ask me a more 7 specific question than that. 8 Q. Okay. Do you always rely on your 9 equipment? I mean, do you ever find it 10 necessary to use your professional 11 judgment? 12 A. Just on every patient. 13 Q. And sometimes equipment can make a mistake, 14 correct? 15 A. Sure. 16 Q. I mean, you know, equipment doesn't always 17 work as it should, right? 18 A. Right. 19 Q. Okay. And you are a licensed optometrist 20 with a therapeutic license, correct? 21 A. Correct. 22 Q. And you have indicated that your continuing 23 education has trained you on the diagnosis	1 dissect it and go bit by bit. 2 And that -- 3 MR. WHITE: That may be, but that 4 doesn't give you the right to 5 go back and ask the same 6 question over and over again, 7 the one that he's answered. 8 MR. ADAMS: If he needs a 9 foundation laid to answer 10 every question, then I've got 11 to go back and do that. Your 12 objection is in the record. 13 Q. Now, these symptoms of glaucoma that Kyle 14 Bengtson presented with on August 20th, 15 2004 called for the ruling out of some form 16 of glaucoma in his right eye. Agree or 17 disagree? 18 A. The symptoms that Kyle showed on that visit 19 showed that he had some diminished vision 20 as far as the clarity of the vision that he 21 was getting with the right eye, and my job 22 is to find a cause of that. And that cause 23 was detected, it was demonstrated to him,
Page 198	Page 200
1 of glaucoma, correct? 2 A. Correct. 3 Q. Okay. And you said you understood film 4 over the eye or blurry vision and halos 5 around lights were symptoms of glaucoma, 6 correct? 7 MR. WHITE: Asked and answered. 8 We're going to keep going back 9 through the same series of 10 questions and answers every 11 time you get ready to ask a 12 question? 13 MR. ADAMS: You know, he's a very 14 artful -- he's very artful at 15 avoiding the questions. 16 MR. WHITE: You have a right to 17 ask a question, but you don't 18 have the right to ask the same 19 question over and over and 20 over again. 21 MR. ADAMS: Well, it seems that 22 when I ask a question, we end 23 up having to back up and	1 and it was taken into effect by changing 2 the glasses. 3 Q. When Kyle came in to pick up a copy of his 4 record after he left Dr. Sepanski's office 5 in March of 2005, did you immediately give 6 him his record? 7 A. Personally, I didn't hand it to him. 8 Someone would have come and asked me, and I 9 would have said okay and made a note on the 10 chart, and they would have given it to him. 11 Q. Okay. But are you aware that that is not 12 what his testimony is going to be? Are you 13 aware that he waited for nearly an hour on 14 his record? 15 A. I don't know. 16 Q. Do you remember him coming in asking for 17 his records? 18 A. In all honesty, no. 19 Q. Were all of these records made 20 contemporaneous with the treatment given? 21 A. Can you rephrase that for me? 22 Q. Were all of these records made at the time 23 of Kyle's visit?

<p style="text-align: right;">Page 201</p> <p>1 A. I'm not sure. I guess we could get that if 2 you needed to. 3 Q. I'm asking you if you made any late entries 4 on his record. 5 A. I don't recall making any. 6 Q. Okay. 7 A. I wrote an entry on his record that he 8 wanted a copy of his records. Is that what 9 you're asking? 10 Q. No. I'm asking you when do you make -- 11 when did you make Kyle's record? Was it at 12 the time he came in and saw you, or do you 13 make the record after he's gone? 14 A. No. When we're through and we've gone over 15 the findings, then this is put in his chart 16 and put up. 17 Q. Okay. And how long after his visit is that 18 done? 19 A. It depends on how long the people up front 20 take to take care of what he was going to 21 have done up there as far as getting 22 glasses or contacts or nothing or what. 23 Q. What is the longest you would wait to make</p>	<p style="text-align: right;">Page 203</p> <p>1 asking you. 2 Q. Okay. I didn't understand that. 3 What are the chances that any of this 4 was -- Strike that. 5 Is it your testimony that you are not 6 aware of any entry made after Kyle Bengtson 7 left your office? 8 A. Just the one about his request for copies 9 of the record. 10 Q. I haven't seen that, I don't believe. 11 I was trying to ask this earlier, but 12 somehow we got thrown off. Given the fact 13 that you knew that on a prior visit the 14 puff test didn't work for Kyle, shouldn't 15 you have used Goldmann's tonometry? 16 A. If there had been any sense of abnormality 17 in the reading that we got that day, I 18 would have done a Goldmann tonometry just 19 like I did on the visit before that when 20 there was a nonreading. 21 Q. Okay. Do you agree that good optometric 22 care requires you to be attentive to the 23 way patients have responded to certain</p>
<p style="text-align: right;">Page 202</p> <p>1 a record like this on a patient who's left 2 your office? 3 A. Longest? I'm not sure what you're asking. 4 MR. WHITE: You're asking longest 5 when he writes it down? I 6 don't think y'all are 7 communicating. 8 Q. How long does it take typically after a 9 patient leaves for you to complete this 10 record? 11 A. Isn't that what I just answered? 12 Q. No. 13 A. Okay. Can you rephrase it another way, 14 then? 15 MR. WHITE: He's asking you when 16 you write down -- when you 17 write it down on the sheet of 18 paper. 19 A. That's what I said a minute ago. After I 20 finish this, this is done before he ever 21 leaves my presence. 22 Q. Okay. 23 MR. WHITE: That's what he's</p>	<p style="text-align: right;">Page 204</p> <p>1 tests in the past? 2 A. Usually if you discuss the -- whether it be 3 any of the tests that are on this page and 4 they had trouble with them before, then 5 I'll usually spend some time, you know, 6 discussing with them the way to make that 7 test result be better, and generally that's 8 good enough. 9 Q. Did you discuss Goldmann's tonometry versus 10 the puff test with Kyle on August the 20th, 11 2004? 12 A. No, I wouldn't have done that. 13 Q. Why not? 14 A. There was no indication to do that. 15 Q. Well, he had had a puff test on a prior 16 visit where you said it didn't work -- 17 didn't work right. 18 A. Right. 19 Q. So you had to use the Goldmann's. 20 A. But on this visit here, it worked just 21 fine. 22 Q. But because he presented with these signs 23 and symptoms of angle closure glaucoma, you</p>

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<p style="text-align: right;">Page 205</p> <p>1 had to be extra concerned and extra careful 2 about an accurate reading of his 3 intraocular pressure, correct? 4 MR. WHITE: Object to the form. 5 A. We did several tests that would have to do 6 with him having angle closure glaucoma, and 7 generally -- I don't know how much you've 8 gotten to read in your book, but in angle 9 closure glaucoma there is a tremendous 10 asymmetry in the pressure between one eye 11 and the other, as much as 30 or 40 points. 12 The difference between 13 and 12 is one. 13 Q. Okay. But there were other tests available 14 to you in the office that day, and you did 15 not use them to measure his intraocular 16 pressure, correct? 17 A. That's correct. 18 Q. Okay. And there were other ways of viewing 19 his angle other than the slit lamp exam, 20 and you didn't use those either, correct? 21 A. We did use a slit lamp exam. 22 Q. But you didn't use anything else? 23 A. To look in the anterior chamber angle?</p>	<p style="text-align: right;">Page 207</p> <p>1 Q. And it appears to be filled out by Kyle 2 Bengtson at his visit -- apparently, his 3 first visit? 4 A. Right. 5 Q. Okay. So that would go with the 2000 note, 6 for the year 2000, like March 24th? 7 A. It would have been filled out then. 8 Q. All right. Thank you. 9 When Kyle Bengtson came in to see you 10 on August the 20th, 2004, what eye problems 11 do you believe he had at that time? 12 A. There were no problems found except for his 13 refractive error. In the left eye, there 14 was no change from the time before. In the 15 right eye, there was a correction for 16 astigmatism change, so it was recommended 17 that he change the right lens in his 18 glasses after a positive demonstration of 19 the change was given to him. 20 Q. Okay. But other than changing his 21 prescription and having him come back for 22 recheck in one year, you didn't refer him 23 for more tests or ask him to come back or</p>
<p style="text-align: right;">Page 206</p> <p>1 Q. Right. 2 A. No. We used the test that you use the slit 3 lamp for, which was the von Herrick method. 4 Q. Okay. But the gonioscopy provides a 5 superior view. Okay. 6 MR. ADAMS: You want to take a 7 break? And I'd like that copy 8 of the written history if we 9 could. Thank you. 10 MR. WHITE: Sure. 11 (Brief recess.) 12 MR. ADAMS: I'm just going to 13 right now -- I don't 14 necessarily know that there's 15 anything that I want to ask 16 about here, but let's just 17 attach it somehow. We'll just 18 make that a part of this 19 exhibit. 20 Q. (Mr. Adams continuing) And let me ask you, 21 Dr. Bazemore. You agree that that is a 22 form used by your office, correct? 23 A. Correct.</p>	<p style="text-align: right;">Page 208</p> <p>1 anything like that, correct? 2 A. There were no other problems detected. 3 Q. So no referral to an ophthalmologist? 4 A. That's correct. 5 Q. And just so I understand, why did you not 6 ask him to follow up with you sooner than 7 one year? 8 A. There were no findings that would have 9 indicated that he come back any sooner than 10 that. 11 Q. Okay. And why no referral to an 12 ophthalmologist? 13 A. There was no problems detected that would 14 indicate that that be done. 15 Q. Okay. If a patient has had trauma to his 16 eye in the past, can that cause angle 17 closure glaucoma? 18 A. It could possibly cause a secondary type. 19 Q. And the standard of care in terms of your 20 duty to be diligent in treatment and 21 diagnosis is the same regardless of the 22 origin of the angle closure, correct? 23 A. That's correct.</p>

		Page 209			Page 211
1	Q.	Or the origin of the symptoms, correct?	1	it?	
2	A.	The origin of the symptoms, I'm not sure --	2	MR. ADAMS: I'm just going to ask	
3		you would have to be more specific than	3	him about it.	
4		that.	4	MR. WHITE: He needs to read it	
5	Q.	Yeah, you're right. That's not a real good	5	first.	
6		question.	6	Q. Well, you can read it. Sure. No problem.	
7		It doesn't matter -- your duty doesn't	7	MR. WHITE: Well, and we're not	
8		change if somebody comes in with glaucoma	8	going to answer questions	
9		pursuant to an injury or glaucoma pursuant	9	about it unless you're going	
10		to some other cause, does it? Your duty to	10	to make it an exhibit to the	
11		provide good care is the same, correct?	11	deposition.	
12	A.	My duty is to try to figure out if they do	12	MR. ADAMS: That's fine. I'll	
13		have glaucoma, and if they do, then to try	13	make it an exhibit. That's	
14		to get something done about it.	14	fine.	
15	Q.	Whether or not that glaucoma originates	15	(Plaintiff's Exhibit 6 was marked	
16		from an injury or some other cause, right?	16	for identification.)	
17	A.	That's true.	17	Q. I'm just going to ask you about the middle	
18	Q.	Okay. How could the gonioscopy have aided	18	paragraph there on the symptoms.	
19		in the diagnosis of narrow angle glaucoma	19	MR. WHITE: I don't think he's	
20		in Kyle Bengtson?	20	finished reading it. I know	
21		MR. WHITE: Object to the form.	21	I'm not. We just finished the	
22	A.	Somebody who actually saw him when he had	22	first paragraph.	
23		angle closure glaucoma would be better able	23	MR. ADAMS: All right.	
		Page 210			Page 212
1		to answer that question. I don't know	1	Q. Okay. If you don't mind, just put this	
2		exactly what was going on with him at that	2	down on the table where we can both look at	
3		time. It wasn't doing that when I saw him.	3	it.	
4	Q.	Okay. Whether or not he had a closed angle	4	A. Okay.	
5		at the time he came to see you, based on	5	Q. All right. Where it says symptoms of	
6		his complaint that he was seeing halos	6	narrow angle glaucoma, you agree with me	
7		around lights, why was the gonioscopy not	7	that it says cloudy cornea there?	
8		performed?	8	A. Correct.	
9	A.	There was no indication to perform it.	9	Q. Blurring and decreased visual acuity. Do	
10	Q.	Would Goldmann tonometry have aided you in	10	you see that?	
11		your diagnosis?	11	A. Correct.	
12	A.	No more so than what we had already.	12	Q. Seeing halos around lights. Do you see	
13	Q.	And are Goldmann tonometry and applanation	13	that?	
14		tonometry the same thing?	14	A. Well, I saw it, yes.	
15	A.	There are other kinds of applanation	15	Q. All right. Are you aware that this kind of	
16		tonometry.	16	information -- I'll just represent to you	
17	Q.	I'm just going to show you this. We may	17	that this kind of information regarding the	
18		make it an exhibit, but -- I'll show it to	18	signs and symptoms of angle closure	
19		your attorney. That's just something I	19	glaucoma is readily available to a layman	
20		found on the internet, and I'll be glad to	20	over the internet. Are you aware of that?	
21		share a copy with your lawyer if you want	21	A. I would think probably so.	
22		to. This is just something that --	22	Q. Okay.	
23		MR. WHITE: You want him to read	23	A. If they looked under -- you could do it	

<p style="text-align: right;">Page 213</p> <p>1 under Google or under Mayo Clinic or 2 something like that.</p> <p>3 Q. Yeah. And I'm not going to take the time 4 to go through everything, but I got one 5 from Emedicine Health, one from IMD.</p> <p>6 A. Right.</p> <p>7 Q. And it all has halos around lights, blurry 8 vision --</p> <p>9 A. Correct.</p> <p>10 Q. -- cloudy cornea. 11 Why do you think that this type of 12 information is so readily available to the 13 public as being a symptom of narrow angle 14 glaucoma, yet you, apparently, were not 15 concerned about glaucoma when Kyle Bengtson 16 presented with these symptoms on August the 17 20th?</p> <p>18 MR. WHITE: Object to the form. 19 That's a compound and 20 confusing, misleading 21 statement. You're going to 22 have to break that down. 23 First you asked why is it on</p>	<p style="text-align: right;">Page 215</p> <p>1 Q. Okay. But at least as of a few hours ago, 2 I presented you with academic literature 3 saying that that is the proper battery of 4 tests.</p> <p>5 MR. WHITE: Object to the form. 6 A. It said that it was the appropriate test if 7 other things applied to that patient which 8 did not apply in Kyle's case.</p> <p>9 Q. Isn't it your job as an optometrist to 10 eliminate the concern that Kyle may have a 11 blinding disease like glaucoma?</p> <p>12 A. Yes. And that's why we checked the 13 pressure in his eye. That's why we looked 14 at his optic nerve. That's why we did a 15 screening for the depth of his anterior 16 chamber angle. That's why we checked his 17 pupil reflexes. That's why we did 18 confrontation visual fields. All of those 19 are useful in diagnosing glaucoma, and they 20 were all normal.</p> <p>21 Q. Okay. What causes seeing halos around 22 lights?</p> <p>23 MR. WHITE: Asked and answered.</p>
<p style="text-align: right;">Page 214</p> <p>1 the Internet, and then you 2 said something about you 3 apparently disregarded the 4 information.</p> <p>5 Q. Do you have an answer?</p> <p>6 MR. WHITE: He's not going to 7 answer that question as 8 asked. If you want to break 9 it down into two questions, 10 you can ask it again.</p> <p>11 A. Have to break it down some.</p> <p>12 Q. If a patient presented to you with these 13 symptoms, the same symptoms that Kyle 14 Bengtson presented on August the 20th, 15 2004, what tests would you run?</p> <p>16 A. I would run all of the tests that we did 17 this day. And if they were -- the results 18 were the same on them, then I would have 19 taken the same treatment plan.</p> <p>20 Q. You wouldn't do the Goldmann's tonometry?</p> <p>21 A. No.</p> <p>22 Q. And you wouldn't do the gonioscopy?</p> <p>23 A. No.</p>	<p style="text-align: right;">Page 216</p> <p>1 MR. ADAMS: He hasn't answered 2 that.</p> <p>3 A. About three times.</p> <p>4 Q. I said what causes it. It's different. 5 What causes it?</p> <p>6 A. Anything that interferes -- let's see. Let 7 me use an analogy. If you're riding down 8 the road and you hit a big splash of some 9 kind of crud on your windshield, and you 10 look at the headlight coming the other way, 11 it's going to have all kinds of different 12 beams and just distortion to the image of 13 the headlight. So if he has cataracts, if 14 he has glaucoma scarring -- I mean, if he 15 has corneal scarring, if he has a 16 refractive error such as an increase in the 17 amount of astigmatism, if he has a retinal 18 problem, all of those things could cause 19 those symptoms.</p> <p>20 Q. Okay.</p> <p>21 A. And some more. 22 (Plaintiff's Exhibit 7 was marked 23 for identification.)</p>

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1 Q. All right. Let me hand you what I'm going
 2 to mark as Plaintiff's Exhibit 7. Do you
 3 recognize this document? I'm not going to
 4 ask you about this whole thing. Just kind
 5 of --

6 MR. WHITE: Do you recognize it?

7 THE WITNESS: Yes.

8 Q. Okay. This is your license agreement
 9 between Wal-Mart and you, correct?

10 A. Correct.

11 Q. Okay. All right. Is everything in here
 12 true and correct? I mean, this
 13 agreement -- Well, you can go ahead and
 14 answer that one, and then we'll ask the
 15 next one.

16 MR. WHITE: Do you know what the
 17 question is?

18 Q. Is this an accurate --

19 A. I'm just looking through to make sure all
 20 of it is right.

21 Q. This is an accurate -- this document is
 22 your license agreement, correct?

23 A. So far it is.

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1 come into the leased area of the store at
 2 any and all times. Do they have open
 3 access to your store? Does a
 4 representative of Wal-Mart have the right
 5 to come and go in your optometry store,
 6 say, even after it's locked up?

7 A. Y'all are the lawyers. I don't know.

8 Q. I'm asking you, do they --

9 A. I've never had that happen.

10 Q. Okay. Do they have a key to your optometry
 11 shop?

12 A. The store manager people have a key where
 13 they can come in in case of emergencies and
 14 stuff.

15 Q. Okay. But do they come in for any other
 16 reasons?

17 A. Not that I'm aware of.

18 Q. Okay. Paragraph 10, it says that you do
 19 not have the right or authorization to
 20 assign or sublicense any part of the
 21 licensed premises to anybody else.

22 Do you understand that to mean that you
 23 cannot like subcontract any of your duties

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1 Q. Okay.

2 A. I'm looking to make sure.

3 Q. Sure.

4 All right. Has this agreement been
 5 modified in any way since it was written
 6 February 28th, 2004?

7 A. Not to my knowledge.

8 Q. Okay. And if it were modified, you and
 9 Wal-Mart would have to do that --

10 A. Correct.

11 Q. -- together? It couldn't be just done by
 12 one party, right?

13 A. No.

14 Q. Okay. Look at page six, if you would,
 15 section 12. It says that Wal-Mart
 16 licensor -- in other words, which is
 17 defined as Wal-Mart -- says that they shall
 18 at any and all times have full right to
 19 enter upon the premises herein licensed for
 20 any lawful purpose.

21 Do you see that?

22 A. Okay. What was the question?

23 Q. Well, paragraph 12 says that Wal-Mart can

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1 or obligations under this agreement?

2 MR. WHITE: Object to the form. I
 3 mean, the document says what
 4 it says. It's a signed
 5 document between he and
 6 Wal-Mart, but --

7 Q. Okay. Well, I'm just asking. Is it a fair
 8 reading of this that you're not permitted
 9 to --

10 Let's just say you got tired of doing
 11 what you're doing. You couldn't just go
 12 find a new optometrist and say, hey, you
 13 know, here, work at Wal-Mart under my
 14 agreement. You're not permitted to do
 15 that, are you?

16 MR. WHITE: Object to the form.
 17 You can answer if you know.

18 A. Sometimes someone from one store will cover
 19 for someone from the other store if there's
 20 illness or death in the family or things
 21 such as that, if that's what you're asking.

22 Q. Well, not exactly, but --

23 I mean, have you ever tried to get out

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<p style="text-align: right;">Page 221</p> <p>1 of this agreement?</p> <p>2 A. No.</p> <p>3 Q. Okay. And do you know if you could get out 4 of this agreement and, like, assign your 5 rights or sell your rights under this 6 agreement to another optometrist?</p> <p>7 A. No. All I can do is break the agreement 8 with Wal-Mart.</p> <p>9 Q. Okay. Are you free to break the agreement?</p> <p>10 A. With a notice.</p> <p>11 Q. Okay. And that's helpful to know. They've 12 got to give you a 60-day notice. Is that 13 what you understand?</p> <p>14 A. What page are you on on there?</p> <p>15 Q. Page one. If they want to break the 16 agreement --</p> <p>17 MR. WHITE: What paragraph are you 18 at?</p> <p>19 MR. ADAMS: It's the last 20 paragraph on the page. 21 Licensor shall whenever 22 possible provide licensee with 23 60 days notice with proposed</p>	<p style="text-align: right;">Page 223</p> <p>1 agreement, but they collect part of -- part 2 of the operation is for them to collect all 3 the fees for me, and I pay them a 4 percentage for that and other jobs that 5 they do to help me.</p> <p>6 Q. Okay. If you can't rule out the prospect 7 of a certain eye disease, what is your 8 duty?</p> <p>9 A. I'm sorry?</p> <p>10 Q. If you can't rule out the prospect of a 11 certain eye disease, what is your duty to 12 the patient?</p> <p>13 A. To have him see somebody that can.</p> <p>14 Q. Okay. Do you know Dr. Richard Murphy, an 15 optometrist?</p> <p>16 A. Oh, okay. Yes.</p> <p>17 Q. Is he a friend of yours?</p> <p>18 A. No, not really. I haven't seen him in a 19 while.</p> <p>20 Q. Okay. When was the last time you saw him?</p> <p>21 A. I think it's been about two or three 22 years. We ended up in the same CE 23 conference.</p>
<p style="text-align: right;">Page 222</p> <p>1 closure of the licensed 2 premises and/or vision center.</p> <p>3 MR. WHITE: Okay.</p> <p>4 A. And what that says is if they close the 5 vision center in that store, they have to 6 give you a 60-day notice.</p> <p>7 Q. Right. And what kind of notice do you have 8 to give them if you want to get out of 9 this?</p> <p>10 A. It's in here somewhere.</p> <p>11 Q. Okay. I see it on page three. It is 12 agreed and understood that licensee shall 13 have the right to terminate this agreement 14 upon the giving of 60-days notice in 15 advance of termination. Okay.</p> <p>16 And when you said earlier that they 17 give you a money order, what I understand 18 is they collect the money for you, and at 19 the end of the day you get a money order 20 for 90 percent of what they collected; is 21 that right?</p> <p>22 A. The percentage varies depending on other 23 things that are flexible within the</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. Are you aware he's given an expert opinion 2 in your case?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. In his affidavit or his opinion, he 5 stated that -- his report, rather -- he 6 said, it is my opinion that Dr. Bazemore, 7 like any other practicing optometrist, 8 could not have predicted the tragic 9 sequence of events that led to plaintiff's 10 vision loss.</p> <p>11 Do you agree that there was a tragic 12 sequence of events here?</p> <p>13 MR. WHITE: Object to the form.</p> <p>14 You can answer.</p> <p>15 A. I think it's unfortunate that he had a 16 problem with his eye, if that's what you're 17 asking.</p> <p>18 Q. Do you agree that no medical professional 19 could see into the future, really? I mean, 20 correct?</p> <p>21 A. I haven't met one yet.</p> <p>22 Q. Right. Y'all aren't in the crystal ball 23 business, are you?</p>

1 A. No. 2 Q. Okay. Do you agree that because you can't 3 predict what lies ahead, you have to 4 prepare for the worst? 5 MR. WHITE: Object to the form. 6 A. No, I don't agree with that. 7 Q. Why not? 8 A. Well, do you sleep in the basement in case 9 you have a tornado? 10 Q. I don't have a basement, but anyway. If 11 you see a tornado coming, do you sleep in 12 your basement? 13 A. If I saw one coming, I would. 14 Q. Because you're concerned for your safety, 15 correct? 16 A. That, and more so my family's. 17 Q. And as an optometrist, it's your duty to be 18 concerned for the safety of those people 19 who come to you as patients, correct? 20 A. That's what they're coming in for. 21 Q. And it is your job to see -- 22 As you said in the first few minutes of 23 this deposition, you are an optometrist,	Page 225 1 A. It would depend on what kind of problems 2 you detected as to what should be done 3 next. 4 Q. Okay. All right. I'm done. 5 * * * * * 6 FURTHER DEponent SAITH NOT 7 * * * * * 8 REPORTER'S CERTIFICATE 9 STATE OF ALABAMA: 10 MONTGOMERY COUNTY: 11 I, Patricia G. Starkie, Registered 12 Diplomate Reporter, CRR, and Commissioner for the 13 State of Alabama at Large, do hereby certify that I 14 reported the deposition of: 15 DAVID BAZEMORE, O.D. 16 who was first duly sworn by me to speak the truth, 17 the whole truth and nothing but the truth, in the 18 matter of: 19 KYLE BENGTSON, 20 Plaintiff, 21 vs. 22 DAVID BAZEMORE, O.D., 23 Et al.,
Page 226 1 correct? 2 A. That's correct. 3 Q. And you are trained to examine eyes for eye 4 problems such as glaucoma, correct? 5 A. Correct. 6 Q. And therefore, you are required to know the 7 symptoms of glaucoma, correct? 8 A. Correct. 9 Q. So that you can see such a problem as 10 glaucoma coming before it causes too much 11 damage, correct? 12 MR. WHITE: Objection to the 13 form. You can answer. 14 A. Well, glaucoma is not very predictable in 15 the sense that until there are symptoms, 16 you can't diagnose them as having them or 17 not or signs. And the only way you can 18 tell if they have it is through 19 verification of different defects which 20 we've already covered and gone through some 21 of that. 22 Q. And the verification requires the 23 implementation of your best tools, correct?	Page 228 1 Defendants. 2 In The U.S. District Court 3 For the Middle District of Alabama 4 Eastern Division 5 Case Number 3:06-cv-00569-MEF 6 on May 15, 2007. 7 The foregoing 227 computer printed pages 8 contain a true and correct transcript of the 9 examination of said witness by counsel for the 10 parties set out herein. The reading and signing of 11 same is hereby waived. 12 I further certify that I am neither of kin 13 nor of counsel to the parties to said cause nor in 14 any manner interested in the results thereof. 15 This 30th day of May 2006. 16 17 18 19 Patricia G. Starkie, Registered 20 Diplomate Reporter, CRR, and Commissioner for the State of Alabama at Large 21 22 23

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NAME	JENSEN - LYNNE		DATE	9/27/03					
DOB	B: 11/17/77 26yrs		ADDRESS	300 E. 1st Wauke					
SEX	F		PHONE	587-2386 2489 Ext 101 Tel 363-759					
RACE	C		SPONSOR	84					
uncorrected		HABITUAL Rx			corrected				
V.A.	dist	near	sph	cyl	axis	add	prism	dist	near
O.D.	20/50					/-100			
O.S.	20/40					/-075			
O.U.				DEx					
P.D.									
HX:	last eye exam:			Reason:					
Last 10/01, see Dr S the clear part-time cc, update			General Health: H.R.C. Medications: No						
Cover Test: SC O/D			Drug Allergies: NSAID						
Convergences									
Ext.	Visual Acuity								
Tensions	None								
NPC	None								
Pupils	Pupil size neglible								
Acc.	N/A								
RET.	V.A.	Subj.	V.A.	Near	V.A.				
O.D.	Clear	-25-125892	20/20						
O.S.		-100	120						
Monoc x-cyl	PRA								
Sinoc x-cyl	NRA								
Ittereopsis	Misc: Confrontation								
Color Vision	OD Foveal OS Periphery plates misses 3 times								
Eratometry	OD 20/20 OS 20/20								
LE	Oph: FES GP 3500 ABIS fund. 20/20								
tonometry	Refractant Buscus distance NCT @ 14 8/50 R+Glasses 8/40/-100/-100								
MP:	PLAN: P) 100 - 25-125892 OS -100								
(A) Myopia ex decompensation in OD	(A47°) Party GPs								

NAME	Bergstrom, Kyle		DATE:	10-03-01					
DOB	1-12-79		ADDRESS	326 14th Rd (649)Leave					
SEX	M		PHONE	867-2500					
RACE	C		SPONSOR	All. Blk 7					
uncorrected			HABITUAL Rx			corrected			
V.A.	dist	near	sph	cyl	axis	add	pstn	dist	near
O.D.	(60)		-.50	-.25	95				
O.S.	40		-.50	-.25	10				
O.U.									

P.D.

(never worn)

Hx: last eye exam: 3-24-00

Reason: Blurred - wants Contacts

last ✓ new glasses General Health: No

the same P.D.

Medications: NO

cc: heart ds

~~the~~ New Drug Allergies: NKDA
Worn

Cover Test

cc Q10

Convergences

Ext. Vision

Versions

PC

Pupils

cc.

Ocular History: Noocular history

RET.

V.A.

Subj.

V.A.

Next

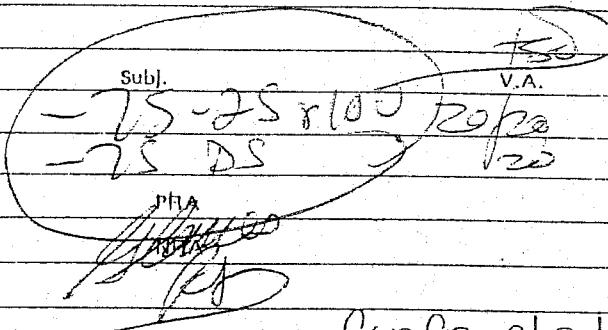
V.A.

D.

S.

Monoc x-cyl

hoc x-cyl



Heteropsis

for Vision plates 8 misses

Misc: Confrontation

OD PESTLE

All grades

Refraction O.D. 44.60/45.00

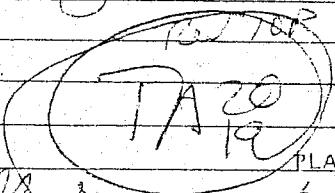
O.S. 44.50/44.87

11/19/03 COT
Attorneys: Foley Zee

Oph.

F.E. 13 35-8+
350
ABT +1.00 Add
Clear

Tonometry NGT @ 3:50 pm



11/19/03 24

D. Myope dext

D. Ultriplex D. D.
8.6/14.0/-1.00

Clear SW 8.20/6.10
Glasses refit
red lenses Doctor

LAST FIRST
NAME BENGTZEN, KYLE
D.O.B. 1-2-78 AGE: 23
SEX M
HAIR W

DATE: 3-24-00

ADDRESS 3012 E Rd 649 W AVE
PHONE 887-2580 ID # A1368794

Insurance:

GROUP #

corrected

uncorrected

HABITUAL Rx

near

V.A.	dist	near	spf	cyl	axls	add	prism	dist	near
O.D.	60-1								
20/	50-1								
O.S.									

None

P.D.

Rx: LAST EXAM DATE: NEVER HAD ONE

REASON FOR VISIT: PTI EXAM

cc: VCO US

HAVING P/D SEEING FAR AWAY

MEDS

noticed float several weeks, near work

KNOWN DRUG ALLERGIES:

OCULAR HISTORY:

Cover Test *odd*

Vergences

Ext. *upper full*Versions *down*HPC *normal*Pupils *normal*Acc. *MTA**fwd*

HET.

V.A.

Subj.

V.A.

Refr.

V.A.

O.U.

O.S.

*Cleared**-25-50895
-50-25810**20/20*

Monoc x-cyl

N/A

Binoc x-cyl

N/A

Stereopsis

Color Vision COLOR PLATES: 0 MISSES *M*Misc: C-EFFC *① ② ③ All quadrants*Keratometry O.D. *44.50/44.87**100/100*O.S. *44.50/45.12**TO R3 035015 ?
R35 035015
Clear*SLE *11/16/03/01/01
unreferred to optometrist*

Opt.

Lotonometry NCP @ 3:00pm

P) Rx glasses D/D

IMP: *11. A) CLOTHON*

PLAN:

*OS -50-25895
OS -50-25810**return D/D*

DR. DAVID N. BAZEMORE
OPTOMETRIST

PATIENT REGISTRATION FORM

Patient's Name: _____

Parent's Name: _____ (If Patient Is A Child)

Mailing Address: _____

Date Of Birth: _____
/ / 19_____

Age: _____ City State Zip

Home Phone: _____ Work: _____

Occupation: _____ Employer: _____

If Student-Grade: _____ School: _____

Who May We Thank For Referring You To Us?

Will Today's Exam Be Paid For By (Circle One)

Cash- Check-Credit Card- Insurance-Other

1. What is your reason for seeking vision care at this time?
2. Do you have any general health problems?
3. Are you taking any medications?
4. Are you allergic to any medications?
5. Have you ever had any injuries, operations or infections involving your eyes?
6. Is there any family history of eye disease such as Cataracts or Glaucoma, in your family?
7. Do you have a lazy eye? Right or Left

Signature

DATE:

ADDRESS

PHONE

SPONSOR

uncorrected

HABITUAL Rx

corrected

	dist	near	sph	cyl	axis	add	prism	dist	near
O.D.									
O.S.									
O.U.									

P.D.

1st eye exam:

Reason:

General Health:

Medications:

Drug Allergies:

ocular History:

RET. V.A. Subj. V.A. Near V.A.

-x-cyl

PRA

-cyl

NRA

osis

Misc: Confrontation

vision plates misses

OD OS

metry O.D.

O.S.

Opt

try NCT @

PLAN:

APPROVED: GM-0534-0008

PLEASE
DO NOT
STAPLE
IN THIS
AREA

HEALTH INSURANCE CLAIM FORM

MEDICARE (Medicare #)	MEDICAID (Medicaid #)	CHAMPU. (Sponsor's SSN)	CHAMPVA (VA File #)	GROUP HEALTH PLAN (SSN or ID)	FECA BLK LUNG (SSN)	OTHER (ID#)	1a. INSURED'S I.D. NUMBER <i>15-12345-123456789</i>	(FOR PROGRAM IN ITEM 1)								
2. PATIENT'S NAME (Last Name, First Name, Middle Initial) <i>J. D. BROWN</i>							4. INSURED'S NAME (Last Name, First Name, Middle Initial) <i>J. D. BROWN</i>									
5. PATIENT'S ADDRESS (No., Street) <i>321 Main St. Apt. 49</i>							6. INSURED'S ADDRESS (No., Street) <i>321 Main St. Apt. 49</i>									
CITY <i>Albuquerque</i>		STATE <i>NM</i>	CITY <i>Albuquerque</i>		STATE <i>NM</i>											
ZIP CODE <i>87107</i>		TELEPHONE (Include Area Code) <i>(505) 887-3580</i>	ZIP CODE <i>87107</i>		TELEPHONE (INCLUDE AREA CODE) <i>(505) 887-3580</i>											
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)							10. IS PATIENT'S CONDITION RELATED TO:									
a. OTHER INSURED'S POLICY OR GROUP NUMBER							a. EMPLOYMENT? (CURRENT OR PREVIOUS) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO									
b. OTHER INSURED'S DATE OF BIRTH SEX MM DD YY M <input type="checkbox"/> F <input type="checkbox"/>							b. AUTO ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO PLACE (State)									
c. EMPLOYER'S NAME OR SCHOOL NAME							c. OTHER ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO									
d. INSURANCE PLAN NAME OR PROGRAM NAME							10d. RESERVED FOR LOCAL USE									
READ BACK OF FORM BEFORE COMPLETING & SIGNING THIS FORM.							d. IS THERE ANOTHER HEALTH BENEFIT PLAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If yes, return-to and complete item 9 a-d.									
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim, I also request payment of government benefits either to myself or to the party who accepts assignment below. <i>J. D. BROWN</i>							13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below. SIGNED _____									
14. DATE OF CURRENT: ILLNESS (First symptom) OR MM DD YY INJURY (Accident) OR PREGNANCY (LMP)							15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS, GIVE FIRST DATE MM DD YY									
17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE							17a. I.D. NUMBER OF REFERRING PHYSICIAN									
18. RESERVED FOR LOCAL USE							16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY									
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1,2,3 OR 4 TO ITEM 24E BY LINE) 1. <i>EDENTAL</i> 2. <i>EDENTAL</i> 3. <i>L</i> 4. <i>L</i>							18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY									
24. A DATE(S) OF SERVICE From MM DD YY To MM DD YY							B Place of Service	C Type of Service	D PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPCS MODIFIER	E DIAGNOSIS CODE	F \$ CHARGES	G DAYS OR UNITS	H EPSDT Family Plan	I EMG	J COB	K RESERVED FOR LOCAL USE
25. FEDERAL TAX I.D. NUMBER SSN EIN							26. PATIENT'S ACCOUNT NO.		27. ACCEPT ASSIGNMENT? (For govt. claim, see back) <input type="checkbox"/> YES <input type="checkbox"/> NO	28. TOTAL CHARGE \$	29. AMOUNT PAID \$	30. BALANCE DUE \$				
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.) <i>J. D. BROWN</i>							32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office)		33. PHYSICIAN'S SUPPLIER'S BILLING NAME, ADDRESS, ZIP CODE & PHONE #							
SIGNED _____ DATE _____							PIN# _____		GRP# _____							

PATIENT AND INSURER INFORMATION

PHYSICIAN OR SUPPLIER INFORMATION

REMEMBER THIS FORM IS USED BY MEDICARE, CHAMPUS, FECA AND BLACK LUNG PROGRAMS. DO NOT SIGN AND RETURN THIS FORM TO THE STATE OR FEDERAL AGENCY WHICH IS PAYING FOR THE SERVICES PROVIDED.

DO NOT SIGN AND RETURN THIS FORM IF IT IS A STATEMENT OF CLAIM CONCERNING ANY BENEFITS ASSOCIATED WITH A FEDERAL PROGRAM. THIS FORM IS NOT APPLICABLE TO FEDERAL PROGRAMS.

DO NOT SIGN AND RETURN THIS FORM IF IT IS A STATEMENT OF CLAIM CONCERNING ANY BENEFITS ASSOCIATED WITH A FEDERAL PROGRAM. THIS FORM IS NOT APPLICABLE TO FEDERAL PROGRAMS.

REFERS TO GOVERNMENT PROGRAMS ONLY

MEDICARE AND CHAMPUS PAYMENTS: A patient's signature requests that payment be made and authorized release of any information necessary to process the claim and certifies that the information provided is true, accurate, and complete. In the case of a Medicare claim, the patient's signature is also an acknowledgement of receipt of Medicare or State and nonmedical information, including employment status and whether the person receives private group health insurance. Similarly, if the patient worked & compensation or other insurance which is responsible to pay for the services or services Medicare claim is made. If the claim is denied & appealed, the patient's signature does not release of the information to the agency that is agency shown in Medicare assigned or CHAMPUS participation where the physician agrees to accept the charge determinator of the Medicare carrier. CHAMPUS total responsibility is the full charge, and the patient is responsible only for the deductible, coinsurance and non-covered services. Coinsurance and the deductible are based upon the charge determinator of the Medicare carrier or CHAMPUS fiscal intermediary if this is less than the charge submitted. CHAMPUS is not a health insurance program but makes payment for health benefits provided through certain affiliations with the Uniformed Services. Information on the patient's sponsor should be provided in those items captioned in "Insured", i.e., items 4, 6, 7, 9, and 11.

BLACK LUNG AND FECA CLAIMS

The provider agrees to accept the amount paid by the Government as payment in full. See Black Lung and FECA instructions regarding required procedure and diagnosis coding systems.

SIGNATURE OF PHYSICIAN OR SUPPLIER (MEDICARE, CHAMPUS, FECA AND BLACK LUNG)

I certify that the services shown on this form were medically indicated and necessary for the health of the patient and were personally furnished by me or were furnished incident to my professional service by my employee under my immediate personal supervision, except as otherwise expressly permitted by Medicare or CHAMPUS regulations.

For services to be considered as "incident" to a physician's professional service, 1) they must be rendered under the physician's immediate personal supervision by his/her employee, 2) they must be an integral, although incidental part of a covered physician's service, 3) they must be of kinds commonly furnished in physician's offices, and 4) the services of nonphysicians must be included on the physician's bills.

In CHAMPUS claims, I further certify that I (or any employee) who rendered services am not an active duty member of the Uniformed Services or a civilian employee of the United States Government or a contract employee of the United States Government, either civilian or military (refer to 5 USC 5536). For Black-Lung claims, I further certify that the services performed were for a Black-Lung-related disorder.

Part B Medicare benefits may be paid unless this form is received as required by existing law and regulations (42 CFR 424.32).

NOTE: Any one who misrepresents or falsifies essential information to receive payment from Federal funds requested by this form may upon conviction be subject to fine and imprisonment under applicable Federal laws.

NOTICE TO PATIENT ABOUT THE COLLECTION AND USE OF MEDICARE, CHAMPUS, FECA, AND BLACK LUNG INFORMATION (PRIVACY ACT STATEMENT)

We are authorized by HCFA, CHAMPUS and OWCP to ask you for information needed in the administration of the Medicare, CHAMPUS, FECA, and Black Lung programs. Authority to collect information is in section 205(a), 1862, 1872 and 1874 of the Social Security Act as amended, 42 CFR 411.24(a) and 424.5(a)(6); and 44 USC 3101; 41 CFR 101 et seq and 10 USC 1079 and 1086; 5 USC 8101 et seq; and 30 USC 901 et seq; 38 USC 618; E.O. 9397.

The information we obtain to complete claims under these programs is used to identify you and to determine your eligibility. It is also used to decide if the services and supplies you received are covered by these programs and to insure that proper payment is made.

The information may also be given to other providers of services, carriers, intermediaries, medical review boards, health plans, and other organizations or Federal agencies, for the effective administration of Federal provisions that require other third parties payers to pay primary to Federal program, and as otherwise necessary to administer these programs. For example, it may be necessary to disclose information about the benefits you have used to a hospital or doctor. Additional disclosures are made through routine uses for information contained in systems of records.

FOR MEDICARE CLAIMS: See the notice modifying system No. 09-70-0501, titled, "Carrier Medicare Claims Record," published in the Federal Register, Vol. 55 No. 177, page 37549, Wed. Sept. 12, 1990, or as updated and republished.

FOR OWCP CLAIMS: Department of Labor, Privacy Act of 1974, "Republication of Notice of Systems of Records," Federal Register Vol. 55 No. 40, Wed Feb. 28, 90, See ESA-5, ESA-6, ESA-12, ESA-13, ESA-30, or as updated and republished.

FOR CHAMPUS CLAIMS: PRINCIPLE PURPOSE(S): To evaluate eligibility for medical care provided by civilian sources and to issue payment upon establishment of eligibility and determination that the services/supplies received are authorized by law.

CUSTOM USE(S): Information from claims and related documents may be given to the Dept. of Veterans Affairs, the Dept. of Health and Human Services and/or the Dept. of Transportation consistent with their statutory administrative responsibilities under CHAMPUS/CHAMPA; to the Dept. of Justice for representation of the Secretary of Defense in civil actions; to the Internal Revenue Service, private collection agencies, and consumer reporting agencies in connection with recoupment claims, and to Congressional Offices in response to inquiries made at the request of the person to whom a record pertains. Appropriate disclosures may be made to other federal, state, local, foreign government agencies, private business entities, and individual providers of care, on matters relating to entitlement, claims adjudication, fraud, program abuse, utilization review, quality assurance, peer review, program integrity, third-party liability, coordination of benefits, and civil and criminal litigation related to the operation of CHAMPUS.

DISCLOSURES: Voluntary; however, failure to provide information will result in delay in payment or may result in denial of claim. With the one exception discussed below, there are no penalties under these programs for refusing to supply information. However, failure to furnish information regarding the medical services rendered or the amount charged would prevent payment of claims under these programs. Failure to furnish any other information, such as name or claim number, would delay payment of the claim. Failure to provide medical information under FECA could be deemed an obstruction.

It is mandatory that you tell us if you know that another party is responsible for paying for your treatment. Section 1128B of the Social Security Act and 31 USC 3801-12 provide penalties for withholding this information.

You should be aware that P.L. 100-503, the "Computer Matching and Privacy Protection Act of 1988", permits the government to verify information by way of computer matches.

MEDICAID PAYMENTS (PROVIDER CERTIFICATION)

I hereby agree to keep such records as are necessary to disclose fully the extent of services provided to individuals under the State's Title XIX plan and to furnish information regarding any payments claimed for providing such services as the State Agency or Dept. of Health and Humans Services may request.

I further agree to accept, as payment in full, the amount paid by the Medicaid program for those claims submitted for payment under that program, with the exception of authorized deductible, coinsurance, co-payment or similar cost-sharing charge.

NATURE OF PHYSICIAN (OR SUPPLIER): I certify that the services listed above were medically indicated and necessary to the health of this patient and were personally furnished by me or my employee under my personal direction.

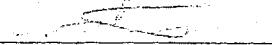
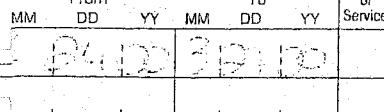
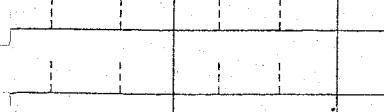
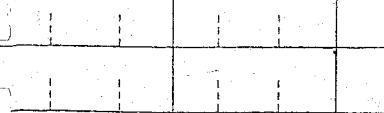
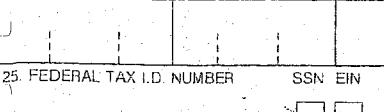
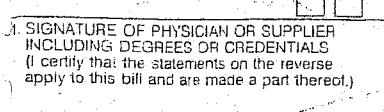
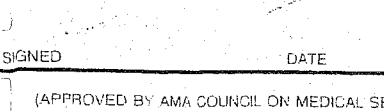
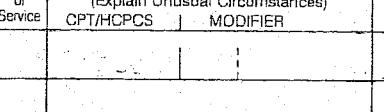
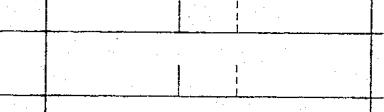
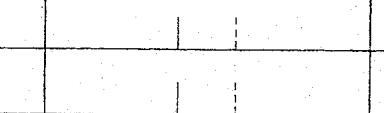
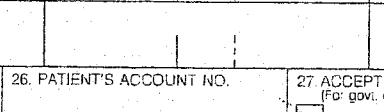
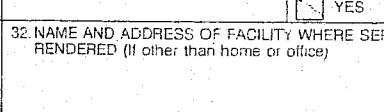
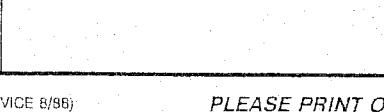
NOTICE: This is to certify that the foregoing information is true, accurate and complete. I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or

PLEASE
DO NOT
STAPLE
IN THIS
AREA

HEALTH INSURANCE CLAIM FORM

HCA

<input type="checkbox"/> MCA																		
1. MEDICARE <input type="checkbox"/> (Medicare #)	MEDICAID <input type="checkbox"/> (Medicaid #)	CHAMPUS <input type="checkbox"/> (Sponsor's SSN)	CHAMPVA <input type="checkbox"/> (VA File #)	GROUP HEALTH PLAN <input type="checkbox"/> (SSN or ID)	FECA B&L LUNG (SSN) <input type="checkbox"/>	OTHER <input type="checkbox"/> (ID)	10. INSURED'S I.D. NUMBER (FOR PROGRAM IN ITEM 1)											
2. PATIENT'S NAME (Last Name, First Name, Middle Initial)				3. PATIENT'S BIRTH DATE MM DD YY MT F		SEX	4. INSURED'S NAME (Last Name, First Name, Middle Initial)											
5. PATIENT'S ADDRESS (No., Street)				6. PATIENT RELATIONSHIP TO INSURED Self <input type="checkbox"/> Spouse <input type="checkbox"/> Child <input type="checkbox"/> Other <input type="checkbox"/>						7. INSURED'S ADDRESS (No., Street)								
CITY		STATE		8. PATIENT STATUS Single <input type="checkbox"/> Married <input type="checkbox"/> Other <input type="checkbox"/>		CITY		STATE										
ZIP CODE		TELEPHONE (Include Area Code)		Employed <input type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time <input type="checkbox"/> Student <input type="checkbox"/>		ZIP CODE		TELEPHONE (INCLUDE AREA CODE)										
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)				10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (CURRENT OR PREVIOUS) <input type="checkbox"/> YES <input type="checkbox"/> NO						11. INSURED'S POLICY GROUP OR FECA NUMBER								
b. OTHER INSURED'S DATE OF BIRTH SEX MM DD YY M <input type="checkbox"/> F <input type="checkbox"/>				b. AUTO ACCIDENT? PLACE (State) <input type="checkbox"/> YES <input type="checkbox"/> NO						a. INSURED'S DATE OF BIRTH MM DD YY M <input type="checkbox"/> F <input type="checkbox"/>								
c. EMPLOYER'S NAME OR SCHOOL NAME				c. OTHER ACCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO						b. EMPLOYER'S NAME OR SCHOOL NAME								
d. INSURANCE PLAN NAME OR PROGRAM NAME				10d. RESERVED FOR LOCAL USE						c. INSURANCE PLAN NAME OR PROGRAM NAME								
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.												d. IS THERE ANOTHER HEALTH BENEFIT PLAN? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, return to and complete item 9-a-d.						
SIGNED  DATE 												13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below. SIGNED						
14. DATE OF CURRENT: MM DD YY				ILLNESS (First symptom) OR INJURY (Accident) OR PREGNANCY (LMP)		15. IF PATIENT HAS HAD SAME OR SIMILAR ILLNESS, GIVE FIRST DATE MM DD YY		16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY										
17. NAME OF REFERRING PHYSICIAN OR OTHER SOURCE				17a. I.D. NUMBER OF REFERRING PHYSICIAN		18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY												
19. RESERVED FOR LOCAL USE												20. OUTSIDE LAB? \$ CHARGES <input type="checkbox"/> YES <input type="checkbox"/> NO						
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY. (RELATE ITEMS 1,2,3 OR 4 TO ITEM 24E BY LINE) 1.  3.  2.  4. 												22. MEDICAID RESUBMISSION CODE ORIGINAL REF. NO.						
24. A DATE(S) OF SERVICE From MM DD YY To MM DD YY B Place of Service C Type of Service D PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPCS MODIFIER												E DIAGNOSIS CODE	F \$ CHARGES	G DAYS OR UNITS	H EPSDT Family Plan	I EMG	J COB	K RESERVED FOR LOCAL USE
           												E DIAGNOSIS CODE	F \$ CHARGES	G DAYS OR UNITS	H EPSDT Family Plan	I EMG	J COB	K RESERVED FOR LOCAL USE
25. FEDERAL TAX I.D. NUMBER SSN EIN				26. PATIENT'S ACCOUNT NO.		27. ACCEPT ASSIGNMENT? (For gov. claims, see back) <input type="checkbox"/> YES <input type="checkbox"/> NO		28. TOTAL CHARGE \$		29. AMOUNT PAID \$		30. BALANCE DUE \$						
J. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.)				32. NAME AND ADDRESS OF FACILITY WHERE SERVICES WERE RENDERED (If other than home or office)		33. PHYSICIAN'S, SUPPLIER'S BILLING NAME, ADDRESS, ZIP, CODE & PHONE #		PIN#		GRP#								

BLACKTOP AND THE INLAND by the author of "The Old Frontier," "The Great West," and "The Big Country."

REGISTRATION OF PROVIDERS FOR SUPPLEMENTAL MEDICARE CHAMPION PROGRAM IN MASSACHUSETTS

and the starting point in the other directions. The total length of the road is 10 km. The distance between the two stations is 2 km. The distance between the two stations is 2 km.

It is also important to note that in a participant's organizational behavior, if they exhibit the propensity for the "overactive" personality pattern, supervisory feedback will often be rejected. They may even be inclined to disregard it as irrelevant or useless. In this case, the supervisor must make sure to keep the feedback brief, direct, and to the point. If the person is manipulative, this must be addressed as a problem.

REAGAN GOVERNMENT, WHETHER EMPLOYED OR NOT, PROVIDED SERVICES WHICH, IN THE LANGUAGE OF THE GOVERNMENT, ARE UNDOCUMENTED. GOVERNMENT'S ATTITUDE TOWARD THESE UNDOCUMENTED EMPLOYEES IS THE SAME AS IT IS TOWARD OTHER UNDOCUMENTED PERSONS IN THE UNITED STATES. GOVERNMENT'S ATTITUDE TOWARD DOCUMENTED EMPLOYEES IS THE SAME AS IT IS TOWARD OTHER DOCUMENTED PERSONS IN THE UNITED STATES.

Plan E (Mechanized Cavalry) and its subordinate regiments are numbered by using the last two digits of the year.

NOTICE TO PATIENT ABOUT THE COLLECTION AND USE OF MEDICARE, CHAMPS, VEGA, AND BLACK LUNG INFORMATION
(PRIVACY ACT STATEMENT)

are authorized in AFPL CHAMPUS and UNMOP to ask you for information needed in the administration of the Medicare CHAMPUS, PEBRA and Black Lung program. Authority to obtain information is in section 106(a), 106C, 107C and 107F of the Social Security Act as amended; 42 CFR 412.24(a) and 464.5(e)(c) and USC 3604A, 3604, et seq. and 36 USC 1074 and 1080; 36 USC 810, et seq. and 36 USC 930, et seq., 36 USC 4101; E.O. 1287

The information we obtain to complete claims under these programs is used to identify you and to determine your eligibility. It is also used to decide if the services or supplies you received are covered by these programs and to insure that proper payment is made.

Information may also be given to other providers of services, carriers (intermediaries), medical review boards, health plans, and other organizations or Federal agencies, for the effective administration of Federal provisions that require other third parties payers to pay primary to Federal program, and as otherwise necessary to administer these programs. For example, it may be necessary to disclose information about the benefits you have used to a hospital or doctor. Additional disclosures may be made through routine uses for information contained in systems or records.

F. MEDICARE CLAIMS. See the notice modifying system No. 92-70-0501 titled "Garter Medicare Claims Records" purchased in the Federal Register, Vol. 58, No. 172, page 37545, Wed. Sept. 12, 1996, or as updated and republished.

OR OWN CLAIMS: Department of Labor, Private Act of 1974, "Reorganization of House," System of Records, Federal Register Vol. 55 No. 47, Wed Feb. 26,

DR CHAMPUS CLAIMS: ERIN-CIPLE PHYSIOMED, LTD., IS THE EXCLUSIVE PROVIDER OF MEDICAL CARE PROVIDED BY CATHETER SPECIALISTS ONCE IT ISSUES A PRESCRIPTION FOR THE USE OF THE CATHETER SYSTEMS IDENTIFIED AS APPROVED OR REGISTERED.

Estimated distribution of the species in the different regions of the world is given in Table 1.

and you will be a good man. You have a family of descendants. No one can tell you what you are going to do with them. You will be a good man."

Wanted: Agents in your area to handle our products. We offer a wide variety of promotional items and products. The products we offer are unique and can be used for many different purposes. We offer a wide variety of products, including: pens, pencils, notebooks, calculators, etc. We also offer a wide variety of promotional items, such as: hats, shirts, bags, etc. We offer a wide variety of products, including: pens, pencils, notebooks, calculators, etc. We also offer a wide variety of promotional items, such as: hats, shirts, bags, etc.

DR. DAVID N. BAZEMORE
OPTOMETRIST

PATIENT REGISTRATION FORM

Patient's Name: Kyle Bentler

Parent's Name: John
(If Patient Is A Child)

Mailing Address: 326 Lee Rd 649 *Waverly AL 36821*

Date Of Birth: 1/12/1977 *Waverly AL 36821*

Age: 23 city State Zip

Home Phone: 887-2520 Work: 505-2100

Occupation: Carpenter Employer: 1st Team Carpentry

If Student-Grade: _____ School: _____

Who May We Thank For Referring You To Us?

Will Today's Exam Be Paid For By (Circle One)

Cash- Check-Credit Card- Insurance-Other

1. What is your reason for seeking vision care at this time?

2. Do you have any general health problems? No

3. Are you taking any medications? No

4. Are you allergic to any medications? No

5. Have you ever had any injuries, operations or infections involving your eyes? No

6. Is there any family history of eye disease such as Cataracts or Glaucoma, in your family?

7. Do you have a lazy eye? Right or Left?

Kyle Bentler
Signature